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The Removal of Juvenile Offenders from Missoula County Jail:
Policy Issues and Alternatives

by

Jeffrey M. Jenson

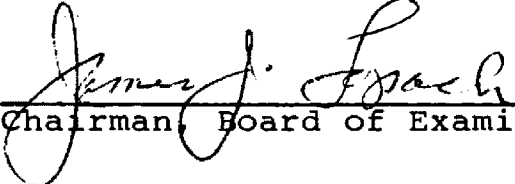
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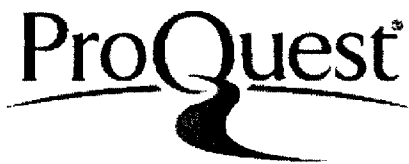


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CHAPTER ONE

THE CASE FOR THE REMOVAL OF JUVENILES FROM ADULT JAILS

INTRODUCTION

The detention of juveniles prior to adjudication or disposition of their cases represents one of the most serious problems in the administration of juvenile justice in the United States today. For years, critics of the American juvenile court system have deplored what they perceive to be the horrors of detaining juveniles in local jails primarily designed for adult offenders prior to a dispositional hearing. Numerous studies have demonstrated that young people under the age of eighteen are often victimized or are prone to suicide when commingled with adult offenders in local jails (see Children's Defense Fund, 1976 and Community Research Forum, 1980). Generally critics agree about where the fault lies and what ought to be done. National organizations such as the Children's Defense Fund and the American Bar Association have accused the police, intake officers of the juvenile court, and the courts themselves for being insensitive to the needs of troubled juveniles (Sarri, 1974:1 and Wald, 1976:119). These organizations have shown that too little money has been spent on recruiting and training staff for working with detained

juveniles and for developing alternatives to the detention of juveniles in local jails (Wald, 1976:119).

The past five years have witnessed a number of state and federal judicial and legislative initiatives aimed at removing juveniles from local county jails. Despite the efforts of the courts and recent legislation which requires an end by 1985 to the placement of juveniles in local adult jails prior to a dispositional hearing, progress in the removal of juveniles from jails in Montana has been painfully slow. This is primarily due to the lack of alternative facilities for the purpose of juvenile detention in the state. County government is responsible for the pre-dispositional detention of juveniles in Montana. The development of alternatives for juvenile detention has been difficult for individual counties to justify when compared to the pressing demands and increased costs of public education, the repair of water and sewer facilities, and other community services.

The purpose of this professional paper is to aid the Missoula County Juvenile Probation Office in the development of an alternative facility for the purpose of juvenile detention. The research conducted in this paper will attempt to estimate the necessary size of any future facility and provide recommendations as to the type of facility that would most effectively meet the juvenile detention needs of Missoula County. While the focus of this research is on Missoula County, attention will be paid to the relatively

small detention needs of the other four counties in the Fourth Judicial District.

The jailing of youths under the age of eighteen is not a new story. It has been intermittently condemned for nearly a century by individuals and groups demanding reform in the American juvenile justice system (Children's Defense Fund, 1976:v). In order to understand a practice as disturbing as the detention of juveniles in local adult jails, a reexamination of the past policies and philosophies of the juvenile justice system is necessary.

THE DEVELOPMENT OF THE JUVENILE COURT

The Separation Of Juvenile And Adult Courts

It was primarily the work of reform-minded men and women deeply interested in a variety of social causes such as prison reform, woman's suffrage, improvement of the lot of the poor and the cause of protecting children from the disadvantages of a criminal conviction, that led to the creation of the first juvenile court in Illinois in April, 1899. The creators of the juvenile court argued that ordinary criminal law in the late 1800's operated in a detrimental way to the lives of troubled youth. Criminal convictions stigmatized juveniles for life and jails and prisons offered little or no opportunity for education or character reform (Paulsen and Whitebread, 1974:1). Jails and prisons were viewed as "schools for crime" in which young persons in trouble were influenced in a negative manner.

Leaders of the juvenile court movement believed that a new system capable of the preventive care of young persons and appreciative of the contributions to be made by psychologists, educators, and social workers was necessary (Zatz, 1982:20). The early reformers felt that the behavioral sciences and the medical arts offered a body of knowledge which, if applied to a deviant child, would result in a positive change in the child's life. This orientation stressed the value of professional expertise and the importance of extending the discretionary authority of the state into the lives of troubled juveniles.

The new juvenile court was to operate on an informal basis. There were to be neither jury trials nor public trials as in the manner of adult criminal cases. The original Illinois Act that established the first juvenile court in 1899 provided that "the court shall proceed to hear and dispose of juvenile cases in a summary manner" (Paulsen and Whitebread, 1974:2). The purposes of juvenile proceedings were to discover the reason why the child misbehaved and to offer treatment which would assist the juvenile in changing his or her ways. In an article published in the Harvard Law Review in 1909, Julian Mack, an early Illinois juvenile judge, expressed the concept of the new juvenile justice system in this manner:

The problem for determination by the judge is not, has this boy or girl committed a specific wrong, but what is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career (Harvard Law Review, 1909:119-120).

Although new state laws across the United States varied somewhat in their definitions of the powers of the newly-established juvenile court, all agreed that it would have jurisdiction over four types of youth:

1. Delinquent children. Those who committed an act which, if committed by an adult, would be a crime.
2. Status offenders. Those who were beyond the control of their parents or were engaged in conduct thought to be harmful to themselves.
3. Neglected children. Those whose parents failed to provide them with proper care and guidance although they were able to do so.
4. Dependent children. Those whose parents, through no fault of their own, were unable to care for them (Empey, 1982:333).

In summary, children would be subject to the power of the juvenile court because of their own behavior, either for acts which would or would not be considered crimes if committed by an adult, because of the irresponsible nature of their parents, or because of the parents' inability to provide for the child. In the majority of states today juveniles under the age of eighteen are brought before the juvenile court.

The fundamental principles of the juvenile court were summarized by Flexner and Oppenheimer in 1922:

...children are to be dealt with separately from adults. Their cases are to be heard at a different time, and preferably, in a different place; they are to be detained in separate buildings, and, if institutional guidance is necessary, they are to be committed to institutions for children. Through its probation offices the court can keep in constant touch with the children who have appeared before it. Taking children from their parents is, when possible, to be avoided; on the other hand, parental obligations are to be enforced.

The procedure of the court must be as informal as possible. Its purpose is to deal with children not as criminals but as persons whose guidance and welfare the state is peculiarly interested. Save in the case of adults, its jurisdiction is equitable, not criminal, in nature (Paulsen and Whitebread, 1974:3).

The Principle Of Parens Patriae

The founders of the juvenile court were aware of the enormous power the court held. The juvenile court had the ability to separate children from their parents and, in some cases, to place a child in a disciplinary institution. This action was possible without a jury or public trial and without basic constitutional rights such as the right to remain silent, or the right to counsel. The court justified this absence of constitutional rights by characterizing juvenile proceedings as civil rather than criminal - an exercise of the states' parens patriae power. Adopted by the American juvenile justice system in the 1800's, the principle of parens patriae, which means the "state-as-parent", justifies state intervention in the lives of troubled youths. This intervention is based on the assumption that either by reason of the child's behavior or the parents' neglect, the state must step in to replace or supplement the parents' role, acting as a "wise parent" to help the child (Children's Defense Fund, 1976:44). Because of this protective philosophy, states have been permitted to relax some of the usual requirements of adult criminal proceedings, such as the right to trial by jury or the right to counsel, in

order to function effectively in the role of the troubled youth's parents.

A very strong philosophical belief stood behind the practice of removing juveniles from the adult criminal system. It was considered a rational development in the early 1900's to protect the child from both the monstorous conditions of the adult system and a future of criminal activity (Little, 1981:4). The proposition that children not be placed in adult jails is an extension of this logic.

JUVENILES IN JAIL: HOW THE SYSTEM WORKS

According to the National Council on Crime and Delinquency, juvenile detention is "the temporary care of children in physically restricting facilities pending court disposition or transfer to another jurisdiction or agency" (NCCD, 1961:1). Detention generally occurs in local county jails primarily designed for adult offenders, in separate juvenile detention centers, or in residential alternatives which present physically restricting boundaries to those juveniles placed inside. Local county jails are defined by the Office of Juvenile Justice and Delinquency Prevention as,

... locked facilities administered by state, county, or local government, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year (Office of Juvenile Justice and Delinquency Prevention, 1981:63266).

Children have been held in jails intended for adults ever since the first American jails were constructed (Goldfarb, 1975:308). Before the establishment of the juvenile court system there were few alternatives to the temporary placement of troubled youths in local jails. The commingling of adults and juveniles in local jails prior to a final dispositional hearing was simply common practice in the early 1900's.

Despite increasing evidence concerning the negative influences upon juveniles placed in adult jails, authorities have continued the practice of commingling juveniles and adults to the present date. The Children's Defense Fund, a national organization advocating the removal of juveniles from local adult jails, estimated that during 1980 five-hundred thousand juveniles were held in adult jails in the United States (Community Research Forum, 1980:1). The utilization of local jails for the detention of juveniles has presented an impediment to the objective of disengaging juveniles from the adult criminal justice system, the primary purpose of the juvenile court.

What Are Jails Like?

Detention, as a component in the juvenile justice system, is significant for each affected youth because it constitutes the initial contact with the system for the majority of those youth detained (Sarri, 1974:14). The fact that many county and municipal jails provide inadequate

programs, are in deplorable physical condition, and offer unsatisfactory environmental situations for juveniles makes this initial contact a largely negative experience for most youth. An example of such conditions is illustrated in a 1971 Montana survey conducted by the Governor's Crime Control Commission (Logan, 1972:2). The survey concluded that two meals a day was the typical pattern for juveniles as well as adults, medical facilities were sparse or totally absent, and programs and procedures for dealing with physical assaults or potential suicides were scarce.

The often overzealous attitudes of staff in adult jails, the high security of operational procedures, and the potential for emotional and physical abuse by incarcerated adult offenders all contribute to the negative experience of jail. In addition, suicides among incarcerated youths occur at alarming rates, as much as seven times the rate among juveniles held in separate juvenile detention centers (Community Research Forum, 1980:31). These arguments have prompted courts and legislative bodies to begin working seriously for the removal of all juveniles from adult jails across the country.

THE CASE FOR THE REMOVAL OF JUVENILES FROM ADULT JAILS

The Role Of Legislation

In 1973, the United States Senate Subcommittee to Investigate Juvenile Delinquency heard convincing testimony

concerning the harmful effects of commingling juvenile and adult offenders:

... regardless of reasons that might be brought forth to justify jailing juveniles, the practice is destructive for the youth who is incarcerated and dangerous for the society that permits youth to be handled in harmful ways (Community Research Forum, 1980:13).

The result of this and similar testimony was the passage of the Juvenile Justice Delinquency and Prevention Act of 1974 (JJDP). The requirements of the Act with respect to juveniles in adult jails are:

... juveniles alleged to be or found to be delinquent and status and non-offenders shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges (Community Research Forum, 1980:13).

The original language of this Act was interpreted by local officials across the United States in a manner that allowed juveniles to be detained in adult jails provided they were separated from adult offenders. However, definitions of separation, generally defined in terms of physical "sight and sound" separation, tend to differ widely throughout the country. In addition, the separation of juvenile and adult offenders is not only impractical from a cost standpoint, but often architecturally impossible (Community Research Forum, 1980:2). Despite the limitations of sight and sound separation, it remains the most widely-practiced juvenile detention policy in the United States today.

In response to these problems, the JJDP Act was amended in 1980 with a mandate for the removal of all juveniles from

local adult jails in the nation. The 1980 Amendments to the JJDP Act require that states receiving funds under the provisions of the Act achieve at least 75 percent reduction in the number of juveniles held in adult jails within five years, with an additional two years to achieve full removal of all juveniles from jails (Corrections, June, 1983:31-32).

Senator Allen Specter, the Republican chairman of the United States Senate Juvenile Subcommittee, has recently introduced legislation that is even stronger than the intent of the JJDP Act. Specter's proposed "Juvenile Incarceration Act of 1983" would require all states to:

... protect children's rights to due process and equal protection by eliminating the practice of holding juveniles in adult jails and lockups (Corrections, June, 1983:33).

The Role Of The Constitution And The Courts

According to the Children's Defense Fund, the predispositional placement of juveniles in jails constitutes punishment, a violation of the due process requirements afforded by the Fourteenth Amendment which prohibits punishment to occur before a final disposition or public trial has taken place (Children's Defense Fund, 1976:44). A recent United States District Court decision (D.B. et al. v. Tewksbury et al., 80-817, U.S. Dist. Ct., 1982) in St. Helens, Oregon, has supported this view. Oregon statutory law presently allows a youth to be detained in a local adult jail provided the portion of the facility holding the youth is screened

from the sight and sound of incarcerated adults (Office of Juvenile Justice and Delinquency Prevention, 1982:17). Under Oregon law, then, juveniles may be legitimately incarcerated prior to a dispositional hearing. In the 1982 case of D.B. et al. v. Tewksbury et al., the scope of the federal constitutional right of detained juveniles became the focus of concern. In the Tewksbury decision the court concluded that due to inadequate facilities and a lack of programs for detained youths the placement of juveniles in Columbia County Jail constituted punishment, a violation of the Fourteenth Amendment (Office of Juvenile Justice and Delinquency Prevention, 1982:17-22). Because the state law of Oregon and the jail in question in this case are strikingly similar to the majority of state laws and local jails in the nation, local probation officials in the United States have begun to examine their facilities and procedures to determine if their present policies of juvenile detention under sight and sound separation constitute punishment.

In addition to the findings of Tewksbury, a similar case (Schall v. Martin et al., 82-1248, 82-1278, Sup. Ct.) originating in the state of New York is scheduled to be heard by the United States Supreme Court in April of 1984. As in the District Court case of Tewksbury, the issue before the Court in Schall v. Martin is whether the predispositional detention of accused juveniles violates the due process clause of the Fourteenth Amendment. This single decision is likely to have far-reaching effects upon the immediate detention

practices in juvenile justice systems across the United States.

JUVENILE DETENTION IN MONTANA

In view of the increasing costs and declining revenue presently facing counties in Montana, the maintenance and operation of county jails has become a significant burden to the budgets of all county governments in the state. Local officials are anxious to remove juveniles from their local jails, as such removal would facilitate greater bedspace and operational flexibility for incarcerated adult offenders. However, the relatively low population of juveniles in need of secure detention and the rural nature of the state itself compound and delay the process of removal for most counties.

The implementation of the 1980 JJDP Amendments, the likely passage of the 1983 "Specter Bill", and the recent Tewksbury decision are changing many existing practices of juvenile detention in Montana. Young persons may still be legally detained in Montana under policies of sight and sound separation, provided adequate facilities and programs are provided in accordance with the findings of Tewksbury. However, in order to decrease the number of juveniles being detained, local juvenile probation officials in the state have begun to utilize detention intake criteria based on specific conditions and circumstances that define when detention is allowable. This serves to prevent illegal or inappropriate detention and to protect officials from any

form of legal liability. The primary problem in the implementation of the above mentioned acts and court decision, however, is finding an alternative approach to the use of local county jails for juvenile detention.

Montana is one of only two states in the nation that does not currently operate a separate facility for the predispositional detention of juveniles.¹ State-wide efforts in juvenile detention have recently been devoted to the development of non-secure, community-oriented alternatives such as residential group care facilities. Little attention has been spent on developing the relatively few secure beds needed by the state. This present lack of facilities prevents compliance with the 1985 Jail Removal Mandate of the JJDP Amendments. Missoula's present overcrowded and inadequate facilities for juvenile and adult incarceration represent an excellent example of this complex problem.

METHODOLOGY

This professional paper is intended to assist Missoula county juvenile probation officials in the development of an alternative facility for the purpose of juvenile detention. This objective will be accomplished through the completion of the following research: 1) the documentation of juvenile detention criteria developed by national, state, and local organizations for deciding which juveniles are to be detained; 2) the application of criteria retrospectively to

Missoula County detention cases in 1982 and 1983 to estimate the number and type of juveniles that will require secure detention under the utilization of criteria in any future system; and 3) the recommendation of an alternative facility for juvenile detention in the Missoula vicinity. The research conducted in this paper will attempt to answer the following key questions:

1. Which national, state, or locally developed juvenile detention criteria are most appropriate for deciding which youths are to be detained in Missoula County? In the initial phase of this research, three examples of national criteria and one example of state and local criteria that define the specific conditions and circumstances in which a juvenile may be legally detained will be identified and analyzed. The goal of this analysis is to recommend a single set of criteria to be used for the purpose of making juvenile detention decisions in Missoula County.

2. How many detention cases should Missoula County plan for under any future system? The recommended set of criteria used for determining juvenile detention identified in number one above will be applied retrospectively to all 1982 Missoula County detention cases and to detention cases in the county between January 1 and March 31 of 1983.

Statistics compiled from the State of Montana Juvenile Probation Information System which indicate the type of offense the youth committed prior to detention and the legal history and status of the youth, i.e., prior adjudications

of delinquent behavior or probation, will provide the primary source of information for this analysis. The retrospective application of the recommended criteria to 1982 detention cases and to detention cases between January 1 and March 31, 1983, will provide the number of youths that would have been detained had this set of criteria been applied. This in turn provides an estimate of how many cases to plan for the future.

Missoula County officially began using criteria for the purpose of determining juvenile detention on April 1, 1983. The number of juveniles detained as a result of the application of the Missoula County Juvenile Detention Criteria by the County Juvenile Probation staff between April 1 and December 31, 1983, will be documented by the author. This figure will be provided by detention statistics compiled by the Missoula County Juvenile Probation Office. In addition, the recommended set of criteria identified in number one above will be applied retrospectively to detention cases between April 1 and December 31. This retrospective application will provide the number of youths that would have been detained during this time period had the recommended set of criteria been applied. The two separate figures will be averaged to achieve a single estimate of the number of cases to plan for in the future. Any significant fluctuation in the number of juveniles detained since the implementation of the Missoula County Juvenile Detention Criteria in April of this year will also be noted at this point.

The actual number of detention cases in Missoula County from January 1, 1982 to December 31, 1983 and the number of cases that would have occurred under the use of the recommended criteria during this same time period will be injected into a formula developed by the Community Research Forum of the University of Illinois, Urbana. This formula is designed to estimate the number of beds necessary for the purpose of secure detention in any given county or jurisdiction. The result of this formula will be adjusted to accommodate peak usage needs and possible use of a future facility by other counties in the Fourth Judicial District.

3. What alternative to the use of the local county jail is most appropriate for juvenile detention in Missoula County? A committee to identify and investigate alternatives to the use of the county jail for the purpose of secure juvenile detention was formed in September of 1983 under the direction of County Commissioner Barbara Evans. Included in the Missoula County Jail Study Advisory Committee are representatives from the Missoula County Juvenile Probation Office, County Attorney's Office, County Sheriff's Department, State District Court, and a private consultant studying the overall adult and juvenile jail problem in Missoula. The voluntary participation of the author in the Advisory Committee will be an integral part of the investigation of alternative facilities for the purpose of juvenile detention. Alternatives to the use of the existing Missoula County Jail for the purpose of secure

detention will be identified by the Advisory Committee in a series of meetings beginning in November of 1983. These alternatives will be listed and briefly examined in this paper.

In the final phase of this research, one preferred facility for the purpose of juvenile detention will be selected by the author and analyzed on the following factors: 1) private agency and county and state government involvement in the development and operation of the facility; 2) public support for the proposed facility; 3) overall program characteristics and the specific population of youth served by the facility; and 4) cost factors and fiscal responsibilities associated with the facility. The investigation of criteria and the number of detention beds needed in Missoula County as determined by this research will provide the basis for the recommendation of a future juvenile detention facility.

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FOOTNOTES

- ¹ This information was secured in a personal interview with staff members of the Juvenile Justice Bureau, State of Montana, Helena in September of 1983.

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CHAPTER TWO

RECOMMENDED JUVENILE DETENTION CRITERIA FOR MISSOULA COUNTY

INTRODUCTION

Juveniles continue to be placed in adult jails despite the increased efforts of legislative bodies and the courts to end the practice of commingling juvenile and adult offenders. In most jurisdictions in the United States the placement of juveniles in local adult jails has been accepted by practitioners in the field of juvenile justice as a legitimate function of the criminal justice system (Little, 1980:5). In order to break time-honored practices of juvenile detention, government organizations such as the Office of Juvenile Justice and Delinquency Prevention stress that the decision to place a juvenile in secure custody should be determined only by objective and specific criteria. The use of criteria to determine juvenile detention is especially important for those youth awaiting court appearance, where historically the decision to detain a youth has been based on the non-legal biases of individual juvenile justice officials (Community Research Forum, 1980:27). These biases commonly include an official's perception of the attitude and the personal appearance of the youth in question at the time of arrest and the reliability and community status of the troubled youth's parents.

To change existing practices of juvenile detention in Montana and Missoula County an accurate understanding of why juveniles are jailed is essential. Past policies of juvenile detention reveal interesting patterns and facts about the type of juvenile most commonly detained in local adult jails. Such an understanding is necessary to provide the foundation and support for an effective public policy change in juvenile detention practices.

WHY ARE JUVENILES JAILED?

According to recent studies conducted by the Office of Juvenile Justice and Delinquency Prevention and the Children's Defense Fund, the case for detaining juveniles in local jails is based on three factors. These are: 1) communities must be protected from dangerous juvenile offenders; 2) juveniles must be protected from themselves or dangerous home environments; and 3) facilities built solely for juvenile detention are inadequate or non-existent (Office of Juvenile Justice and Delinquency Prevention, 1980:7-14 and Children's Defense Fund, 1976:19-27). At surface level these rationales appear to be well-founded and reasonable. Supporters of juvenile detention in local jails cite the fact that jails are not intended to be used for the purpose of punishment, but merely as temporary holding stations for troubled youths (Little, 1981:5). Juvenile justice officials argue that detention in jail is not a form of punishment when prefaced with a requirement such as sight

and sound separation of juveniles from adults within the same facility.

Advocates favoring the complete removal of juveniles from adult jails state that these time-honored rationales used to justify the jailing of youth break down under close scrutiny (Brown and Wood, 1980:1). For example, studies have provided evidence that the threat posed to the community by troubled juveniles who are not placed in secure detention is unsubstantiated. A recent survey of a nine state area conducted by the Children's Defense Fund indicated that eighteen percent of the juveniles in jail had been charged with only status offenses, acts that would not be considered crimes if committed by adults (Brown and Wood, 1980:1). The same survey indicated that of those youth detained on criminal offenses, eighty-four percent were accused of property and other minor offenses in which damages totalled less than \$150. A similar study by the Community Research Forum of the University of Illinois, Urbana, stated that of 162 children found in an Illinois county jail on a given day in 1976, only 11.7 percent had recorded charges for allegedly committing a dangerous act (Community Research Forum, 1980:4). The results of these studies appear to indicate that in these sample populations the majority of youth detained posed no immediate threat to the community.

If the protection of the community is not cited as a reason for juvenile detention, the argument that juveniles

must be detained for protection from themselves or their home environments is often forwarded. Critics of this rationale have charged that it is a fallacy to confine children in jails in the name of protection when such jails contain dangerous offenders and provide inadequate facilities or staff to ensure adequate security (Children's Defense Fund, 1976:23). Placing a youth in jail to protect against harmful home environments can also have contrary and unwanted effects according to Dr. Rosemary Sarri, author of Under Lock and Key: Juveniles in Jail and Detention. Dr. Sarri states,

Besides being terrifying and lonely the kids perceive being jailed as totally unnecessary...if they're jailed with people who have committed robbery, homicide, etc. the word justice becomes ridiculous. Especially if they ran from an intolerable situation at home (1974:16).

Children are also placed in jails because secure alternatives do not exist or are considered inappropriate. While the absence of secure detention facilities is a legitimate problem in rural areas, studies have shown that even in urban areas in which separate juvenile detention centers exist, juveniles are still placed in adult jails for the purpose of detention (Goldfarb, 1976:312-314). One cannot assume that the availability of a detention center will completely eliminate the use of jails for juvenile detention.

The Children's Defense Fund, in a report published in 1976, stated that if juvenile detention facilities are

inappropriate for holding a youth due to an emotional illness, security threat, or some physical disorder, local juvenile justice officials should demand improvements in the facility to accommodate such individuals (1976:34).

Separate juvenile detention facilities must be improved to manage special cases like those described above. The continued placement of individuals with special problems in adult jails provides no short or long-term solutions.

Reasons or explanations given for jailing youth are often vague and contradictory. Evidence from jail records across the United States indicates that placing or holding juveniles in jail is often haphazard, determined largely by accident of geography or time of day, or attributed to a lack of separate juvenile facilities. The ignorance of law enforcement officials of the laws in their own states restricting or prohibiting the use of jails for juveniles and public unawareness about what happens to children when placed in jails are also significant factors in determining why juveniles are placed in jails (Children's Defense Fund, 1976:19).

JUVENILE DETENTION POLICIES OF MISSOULA COUNTY

In the majority of states, children facing juvenile court proceedings can be placed in detention when a police officer, probation official, or judge decides that it is not safe for them or society to permit them to remain in the

community pending a final disposition by the court (Wald, 1976:120). Section 41-5-306 of the Montana Youth Court Act states that "a youth may be detained in a jail or other facility for the detention of adults only if the juvenile court orders it" (Montana Youth Court Act, 1975:12).

Despite this provision, the decision to place a juvenile in an adult jail in Missoula County has been delegated by the court to respective juvenile probation officials in the County. The juvenile court has delegated this responsibility of detention to local probation officials based on the belief that officials at the local level are more accurately able to assess which juveniles should be detained. This is primarily due to the availability of relevant information necessary to make detention decisions contained at the local probation office.

Prior to the adoption in April, 1983, of locally developed detention criteria that define the circumstances in which a juvenile may be detained, the Missoula County Juvenile Probation Office had no formal means of controlling which juveniles were detained in the local county jail. Decisions to detain youths prior to April, 1983, were based on the knowledge of the responsible probation officer concerning the youth in question, the attitude displayed by the youth at the time of arrest or apprehension, and the availability of alternative resources in the community.¹ Such resources prior to late 1976 included returning the troubled

youth to his or her home environment or diverting the youth to temporary foster care. Due to the psychological complications of returning youths to troubled home environments and the lack of foster homes in the community, many youths remained in jail until a final disposition by the court was reached.

In December of 1976 Missoula Youth Homes, a nonprofit youth service organization located in Missoula, established a community-oriented alternative for juveniles facing detention in the local county jail. The (Missoula) Attention Home, commonly referred to as a shelter care facility, was designed to accept non-serious and status offenders, e.g. youths accused of running away from home or being truant from school, who normally would have been detained in the local jail. As a result of this new alternative, the number of non-serious and status offenders detained in the local county jail decreased by approximately one-half between December of 1976 and 1977 (Missoula County Detention Statistics, 1983). However, due to the lack of security in the form of supervision and physically restricting boundaries, the Attention Home is unsuitable for the detention of juveniles guilty of committing serious crimes. While the Attention Home fills an important void in the continuum of services for troubled youths, it is unable to eliminate totally the detention population in the Missoula County Jail.

The Need For Detention Criteria

To combat the inappropriate placement of juveniles in adult jails and to decrease the population of juveniles in detention, organizations such as the American Bar Association suggest that specific criteria which includes type of offense, previous legal history, and legal status, previous adjudications of delinquency or probation, be used in determining whether to detain or release a youth (American Bar Association, 1980:5-6). Specific criteria that define the circumstances and conditions in which detention is appropriate allow detention decisions to be reached irrespective of such biases as appearance, sex, or race of the juvenile, attitude of the probation official, or time of day. In addition, studies have indicated that the use of objective criteria significantly reduces the use of secure detention (Brown and Wood, 1980:4). A 1980 report by the Community Research Forum shows that in locations where objective and specific intake criteria have been adopted, reductions of up to 80 percent have occurred in the number of total detention cases, without increased danger to the public safety or the court process (1980:14).

As previously mentioned, the Missoula County Juvenile Probation Office developed and implemented juvenile detention criteria in April, 1983. These criteria were designed to reduce the number of juveniles being placed in the Missoula County Jail and to provide an objective means for local officials to determine who should be detained in any

future facility designed for secure detention. The following section of this paper provides an analysis of this and four other examples of juvenile detention intake criteria.

AN ANALYSIS OF RESTRICTIVE DETENTION CRITERIA

Historical Development Of Criteria

Early codes and standards developed for the purpose of decision making in cases of juvenile detention used general and imprecise phrases to grant broad discretion to local officials to detain juveniles. The underlying belief that officials at the local level had a better understanding of all the relevant factors necessary to make a detention decision permeated the early criteria. For example, the 1959 "Standards Juvenile Court Act" permitted detention if the child's immediate welfare or the protection of the community require that he or she be detained (American Bar Association, 1980:6). Individual state standards also tended to emphasize protection of self or community as major reasons for detention. Clearly, this vague language allowed officials to detain youths for a wide variety of reasons, based on countless interpretations of existing standards.

A 1972 study of juvenile detention by Ferster and Courtless introduced the concept of stricter detention criteria to the juvenile justice system. In this study, the

authors outlined comprehensive, separate intake criteria for the secure and non-secure detention of juveniles. Each set of criteria was based on readily identifiable facts about the juvenile in question. Automatic secure detention was recommended for the following juveniles: 1) out-of state runaways; 2) escapees from institutions for delinquent criminals; 3) children accused of offenses against persons when the victim required medical attention for his or her injuries; 4) juveniles accused of felonies who have more than one prior court referral for running away; and 5) juveniles accused of selling addictive drugs (American Bar Association, 1980:8). Discretionary detention would also be permitted for juveniles accused of crime who had three prior delinquency adjudications or five or more non-delinquent adjudications, e.g., charges of truancy, runaway, etc., within the last two years.

A 1975 report by California's Department of Youth Authority entitled, "Hidden Closets: A Study of Detention Practices in California" continued the trend toward developing precise, objective criteria (American Bar Association, 1980:8). Specifically, this California study rejected the concept that detention somehow protects the individual youth from his or her own irresponsibility. The study also addressed the issue of protection of community in a more comprehensive and specific manner.

Since 1975, intake criteria for purposes of determining juvenile detention in local jails have developed in a very narrow and specific manner. Former use of general language that allowed broad discretion to detain youths has been replaced by standards that specify the relevant facts a decision maker must locate in order to impose detention (American Bar Association, 1980:10). National and state standards attempt to define the best interests of the juvenile in question and of society by specifically outlining the circumstances and conditions under which detention is considered appropriate.

Examples Of Nationally Developed Detention Criteria

1) National Council on Crime and Delinquency Prevention (NCCD). Throughout much of the 1960's and 1970's juvenile detention decisions in Missoula County, Montana, and the United States were based on criteria developed by the NCCD. The NCCD criteria, as listed below, generally served as the only major guidelines for making detention decisions. Specifically, the criteria states that youth eligible for detention are:

1. Children who are almost certain to run away during the period the court is studying the case, or between disposition and transfer to another jurisdiction.
2. Children who are almost certain to commit an offense dangerous to themselves or to the community before court disposition or between court disposition and transfer to an institution or another jurisdiction.

3. Children who must be held for another jurisdiction; e.g. parole violators, runaways from institutions to which they were committed by a court, or certain material witnesses (NCCD, 1961:3-4).

The primary difficulty with NCCD criteria lies in the interpretation of the first and second guidelines. From an objective viewpoint, determining when a child is almost certain to run away or commit an offense prior to a dispositional hearing or final placement is nearly an impossible task. The vague language of these two provisions typically has allowed for the detention of many status and less-serious delinquent offenders (Office of Juvenile Justice and Delinquency Prevention, 1981:108).

2) National Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice (NAC).

The criteria developed by the NAC are intended to limit secure detention to those instances in which no less restrictive alternative is sufficient to protect the juvenile, the community, or the jurisdiction of the court (Community Research Forum, 1980:56). NAC criteria are considerably more restrictive i.e. allow for fewer cases of detention, than the earlier developed NCCD guidelines. Specifically , the criteria state that juveniles subject to the jurisdiction of the family court should not be detained in a secure facility unless:

1. They are fugitives from another jurisdiction;
2. They request protection in writing in circumstances that present an immediate threat of serious physical injury;

3. They are charged with murder in the first or second degree;
4. They are charged with a serious property crime or a murder which if committed by an adult would be a felony, and:
 - a) they are already detained or on conditioned release in connection with another delinquency proceeding, or
 - b) they have a demonstrable recent record of willful failures to appear at family court proceedings, or
 - c) they have a demonstrable recent record of violent conduct resulting in physical injury to others, or
 - d) they have a demonstrable recent record of adjudications for serious property offenses.
- 5) There is no less restrictive alternative that will reduce the risk of flight, or of serious harm to property or to the physical safety of the juvenile or others (Community Research Forum, 1980:56).

Criteria developed by the NAC have been considered very effective in avoiding the inappropriate jailing of juveniles (see Community Research Forum, 1980 and Children's Defense Fund, 1976). Subparagraphs one and three address specific issues that are relatively easy for local officials to verify and/or define. For example, subparagraph one, which allows the detention of juveniles who have fled from another jurisdiction, can be easily verified by local officials. Subparagraph three, which allows the detention of juveniles accused of committing first or second degree murder, is equally verifiable.

Subparagraph number four states that the commission of a crime of violence short of first or second degree murder but

still equivalent to a felony, e.g., assault, aggravated burglary etc., is not in itself sufficient to detain a juvenile in a secure detention facility. The juvenile must also have a demonstrable recent record of committing violent offenses, be on conditioned release in another delinquency proceeding, or be in detention pending adjudication. Similarly, being charged with a serious property offense, e.g., burglary, arson etc., must be coupled with a demonstrable recent record of adjudications for such offenses. According to the NAC, the term "demonstrable recent record" is not intended to require identification of a certified copy of a prior adjudication order, but should include more than allegations of prior misconduct (Community Research Forum, 1980:57). In most jurisdictions, including Missoula County, records maintained by the local juvenile probation office provide sufficient evidence to illustrate a demonstrable recent record of misbehavior.

Subparagraph two recommends that detention be permitted upon the juvenile's written request, coupled with circumstances that indicate the youth is in immediate danger of serious physical injury. According to the NAC, such danger is intended to be more than the risk of "being on the streets at night" or the possibility that the juvenile may be harmed if he or she continues to get into trouble (Community Research Forum, 1980:57). Finally, subparagraph number five requires that officials consider all other

alternatives before finalizing a decision to detain any youth.

This criteria differs significantly from earlier efforts. In addition to basing the detention decision on the type and seriousness of offense, it also demands that in most cases another circumstance be present in order to incarcerate the offender. When implemented properly, NAC criteria remove inappropriate youths, e.g. non-serious and other status offenders, from the threat of secure detention.

3) Institute of Judicial Administration - American Bar Association (ABA). Juvenile detention criteria developed by the ABA is highly restrictive. The ABA believes that detention should not be imposed on an accused juvenile to: 1) punish, treat, or rehabilitate; 2) allow parents to avoid their legal responsibilities; 3) satisfy demands by a victim, police, or the community; 4) permit convenient administrative access to the juvenile; or 5) accommodate local officials due to the lack of more appropriate facilities or alternatives (American Bar Association, 1980:52-53).

Specifically, the provisions of the ABA criteria are:

A. Mandatory Release

The intake officer should release the accused juvenile unless the juvenile:

- 1) is charged with a crime of violence which in the case of an adult would be punishable by a sentence of one year or more, and which if proven, is likely to result in commitment to a security institution, and one or more of the following factors is present:
 - a) the crime charged is one of first or second degree murder:

- b) the juvenile is currently in an interim status under the jurisdiction of the court in a criminal case, or is on probation or parole under a prior adjudication, so that detention by revocation of interim release, probation, or parole may be appropriate;
 - c) the juvenile is an escapee from an institution or other placement facility, e.g. mental health center, which he or she was sentenced under a previous adjudication of criminal conduct;
 - d) the juvenile has a demonstrable recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds no measure short of detention can be imposed to reasonably ensure appearance; or
- 2) has been verified to be a fugitive from another jurisdiction, and official of which has formally requested that the juvenile be placed in detention.

B. Mandatory Detention

A juvenile who is excluded from mandatory release under subsection A (above) is not, "pro tanto," to be automatically detained. No category of alleged conduct in and of itself may justify a failure to exercise discretion to release.

C. Discretionary Situation

- 1) Release v. detention: In every situation in which release of an arrested juvenile is not mandatory, the intake official should first consider and determine whether any form of control short of detention is available to reasonably reduce the risk of flight or misconduct. If no such measure will suffice, the official should explicitly state in writing the reasons for rejecting each of these forms of release.
- 2) Unconditional v. conditional or supervised release: In order to minimize the imposition of release conditions on persons who would appear in court without them, and present no substantial risk in the interim, each jurisdiction should develop guidelines for the use of various forms of release based upon the resources and programs available, and analysis of the effectiveness of each form of release.

- 3) Secure v. nonsecure detention: Whenever an intake official determines that detention is the appropriate interim status, secure detention may be selected only if clear and convincing evidence indicates the probability of serious physical injury to others, or serious probability of flight to avoid appearance in court. Absent such evidence, the accused should be placed in an appropriate form of nonsecure detention, with a foster home to be preferred over other alternatives (American Bar Association, 1980:90-91).

ABA criteria is separated into three distinct sections, each addressing a different aspect of detention. Section A of the criteria defines the categories and conditions permissible for detention to occur. In none of these categories is detention automatic; the rule instead is that persons not in these categories are automatically to be released (American Bar Association, 1980:79). The first of these exceptions to mandatory release conforms to the rule and practice of detaining juveniles involved in the most serious offenses, i.e., first or second degree murder. The following three exceptions listed by the ABA are fugitive status, escapee status, and recent failure to appear in court proceedings. All are concerned with the issue of potential flight before a dispositional hearing.

Section B of the ABA criteria emphasizes the fact that the alleged criminal offense is never sufficient in itself to justify detention. Section C, outlawing mandatory detention, is the converse of Section A. All three points in Section C describe discretionary situations that should be applied to all potential cases of juvenile detention. To summarize, the ABA criteria strive to reach a middle ground

in detention decisions, characterized by a distinct preference for release, a permissible but minimal category of detention cases, and a requirement of discretion in identifying those who may be detained.

Examples Of State Developed Detention Criteria

1) Montana State Jail Standards Criteria. Until 1981, the State of Montana had no official or even widely-used set of criteria for local officials to use when determining the necessity of juvenile detention. In 1981 the Montana Jail Standards, developed by the Montana State Sheriff's Association, established conditions under which a juvenile could be detained in jail. Specifically, the criteria states that a juvenile may be held in jail if he or she has allegedly committed or attempted:

- a) a criminal homicide as defined in section 45-5-101 of the Montana Code Annotated (MCA); or
- b) an aggravated assault as defined in section 45-5-202 MCA; or
- c) an arson as defined in section 45-6-103 MCA; or
- d) a robbery as defined in section 45-6-401, MCA; or
- e) a burglary or aggravated burglary as defined in section 45-6-204 MCA; or
- f) a sexual intercourse without consent as defined in section 45-5-503 MCA; or
- g) an aggravated kidnapping as defined in section 45-5-303 MCA; or
- h) a possession of explosives as defined in section 45-8-335 MCA; or
- i) A criminal sale of dangerous drugs for profit as included in section 45-9-101 MCA; or

- j) a felony theft as defined in 45-6-303 MCA.
- k) if the youth presents a danger to him or herself or the community and no other approved facilities are available (Montana State Jail Standards, 1981:7).

The criteria developed in the 1981 Montana Jail Standards primarily focus on the offenses for which detention is considered appropriate. While these offenses are clearly defined, the standards fail to address questions of legal history or legal status in any comprehensive manner. The major difficulty with the Montana Jail Standards criteria however, lies with clause k. This clause, which allows for detention if the youth presents a danger to him or herself or the community and no other alternative facilities are available, grants a great deal of individual discretion to local officials. This clause allows officials to detain juveniles for a variety of reasons based on countless interpretations of what constitutes a danger to the individual youth or the community. The vague language of clause k severely limits the applicability of this criteria.

2) Missoula County Detention Criteria. In April, 1983, the Missoula County Juvenile Probation Office developed and implemented juvenile detention criteria for use in the county. Specifically, the Missoula County Criteria states that a juvenile may be held in a secure detention facility if he or she has allegedly committed or attempted:

- 1) a criminal homicide as defined in section 45-5-101 MCA; or

- 2) an aggravated assault as defined in section 45-5-202 MCA; or
- 3) an arson as defined in section 45-6-1103 MCA; or
- 4) a robbery as defined in section 45-5-401 MCA; or
- 5) a burglary or aggravated burglary as defined in section 45-6-204 MCA; or
- 6) a sexual intercourse without consent as defined in section 45-5-503 MCA; or
- 7) an aggravated kidnapping as defined in section 45-5-303 MCA; or
- 8) a possession of explosives as defined in section 45-8-335 MCA; or
- 9) a criminal sale of dangerous drugs as included in section 45-9-101 MCA; or
- 10) a felony theft as defined in 45-6-303 MCA;
- 11) an escape from an in-state or out-of-state institution;
- 12) an aftercare violation; or
- 13) other felony and misdemeanor offenses where aggravating circumstances and conditions exist. This must be documented.

Other conditions which warrant detention include:

- 14) a record of failure to appear for court hearings and warrant of arrest from a district judge is issued;
- 15) the issuance of a verified warrant from another jurisdiction as long as it applies to a criminal violation of the law;
- 16) violation of a valid court order issued by a district court judge (Missoula County Detention Criteria, 1983:3-4).

Criteria developed by the Missoula County Juvenile Probation Office combine the offenses considered to be appropriate for detention outlined in the Montana Jail

Standards with six other conditions that warrant secure detention, e. g. escape or missing from a state institution, failure to appear at court proceedings etc. Missoula County criteria do satisfy the language and intent of nationally developed criteria. For example, points thirteen and fourteen appear to go beyond the limitations of national criteria by requiring the issuance of a warrant in cases relating to criminal violation of a law in another jurisdiction or of willful failure to appear for previous court hearings.

However, point fifteen, allowing detention for other felony and misdemeanor offenses where aggravating circumstances and conditions exist, allocates far too much flexibility to local officials when determining whether or not to detain a juvenile. While the required documentation of these conditions may offset the vague definitions of "other felony and misdemeanor offenses" and "aggravating circumstances and conditions," this provision provides considerable potential for inconsistent policy. The present Missoula County probation staff may be sensitive to the potential abuse of this provision, but, one cannot assume that this sensitivity will continue or provide the basis for consistent, long-range policy.

RECOMMENDED CRITERIA FOR MISSOULA COUNTY

The purpose of utilizing criteria to determine juvenile detention in any jurisdiction is to end the practice of

placing inappropriate youths, such as non-serious and status offenders, in detention facilities. When used effectively, criteria limit the population of juveniles in detention and provide data from which accurate detention population estimates for the future can be made. Any criteria recommended for the purpose of determining juvenile detention in Missoula County, regardless of where detention may occur, must be based on how restrictive the criteria are and the projected acceptance and subsequent application of the criteria by local officials. An examination of each of these factors follows.

The Degree Of Restrictiveness In Detention Criteria

Criteria should be designed to serve local juvenile probation officials as a decision making tool to ensure that only juveniles who require the presence of physically restricting boundaries due to the commission of specific and/or serious crimes, e.g., homicide, aggravated assault etc., are placed in secure detention. Therefore, it is essential that the adoption of any restrictive criteria that limits juvenile detention in Missoula County adequately address the types of crime that require detention. For example, criteria developed by the National Advisory Commission (NAC) and the American Bar Association (ABA) classify serious offenses that warrant juvenile detention as, "crimes that would be felonies if committed by an adult" (see pages 30 and 33). Such felony offenses are familiar to

local probation and correctional officials and are also verifiable by state statute in Montana. The Montana Jail Standards and the Missoula County Detention Criteria specify offenses in a very precise manner by listing specific crimes that are considered serious enough to require secure detention, e.g. arson, robbery, aggravated assault, etc. Only criteria developed by the National Council on Crime and Delinquency (NCCD) fail to address adequately this aspect of restrictiveness. NCCD criteria address issues of flight before disposition, threat of danger to self or community, and juveniles being held for another jurisdiction, but do not list or comment on offenses that are considered appropriate for detaining juvenile offenders. Therefore, on this basis, NCCD criteria is eliminated from further consideration for use in Missoula County.

A second factor when considering the restrictive nature of any criteria involves the coupling of a specific offense with other existing circumstances or conditions present at the time of arrest. For example, NAC and ABA criteria state that the commission of a crime short of a charge of criminal homicide is not in itself enough to detain a juvenile. The committed crime must also be coupled with other circumstances or conditions, such as a demonstrable recent record of violent conduct or a willful failure to appear at previous court proceedings. This clause eliminates many first-time offenders from placement in jail or alternative detention facilities and allows them the opportunity for assistance

through diversion to mental health centers or other community alternatives. Such an approach is consistent with the principles of the juvenile justice system, as it provides protection and assistance for troubled youths. The lack of such a clause in the Montana Jail Standards and the Missoula County Detention Criteria is a serious flaw in both sets of criteria.

There is an additional clause in both the Montana Jail Standards and the Missoula County criteria that totally eliminate these criteria from a final recommendation for practical application. The Montana Jail Standards allow the detention of a youth if the juvenile presents a danger to himself or the community. As previously discussed, this clause is vague and provides a great deal of discretion at the local level. One juvenile probation official in Missoula County may have an entirely different definition of what constitutes danger to self or community than another official. Similarly, a clause in the Missoula County criteria allowing for the detention of youths for other unspecified felony and misdemeanor offenses in which aggravating circumstances and conditions exist is also too vague for practical application. The county has failed to define the specific offenses, circumstances, or conditions that satisfy this provision. This could result in the detention of juveniles because of a personality conflict between the referring official and the youth or due to any number of complicating circumstances at the time of arrest. It is the

opinion of the author that criteria developed in the Montana Jail Standards and by Missoula County are presently not restrictive enough to ensure an appropriate population of detained juveniles.

Criteria developed by the NAC and ABA are both adequately strict in language and design to ensure that decisions to detain juveniles are made on an objective basis. Both examples contain the proper language to end inappropriate juvenile detention by providing attention to the type of offense which warrants secure care, coupling the offense with circumstances such as previous legal history, and by deliberately omitting a clause that allows detention due to a number of unspecified complications at the time of arrest. However, an important aspect of any two seemingly equal criteria lies in its acceptance by local officials.

The Acceptance Of Criteria By Local Juvenile Probation Officials

Any criteria for the purpose of restricting and regulating the number of juveniles placed in secure detention must be explicitly understood, approved of, and applied by local probation officials in Missoula County in order to be successful. The language of any chosen criteria must be readily applicable to a variety of situations. It is the opinion of the author that criteria developed by the ABA, though highly restrictive in nature, fails to meet the expectations and needs of the Missoula County Juvenile

Probation Office. This is primarily due to a lack of clarity in the language and in the organization of the guidelines. For example, a particularly troublesome point for local officials involves the requirement of determining whether or not mandatory release is appropriate for the juvenile in question (see page 36). When deciding if a youth should be released the local official is required to determine if: 1) the youth is charged with a crime that if committed by an adult would be punishable by a sentence of one year or more; and 2) which, if proven, is likely to result in commitment to a security institution (ABA, 1980:90). Point number two, requiring the official to determine if the offense committed by the juvenile would result in placement in a security institution, e.g. Pine Hills or Mountain View Schools in Montana, requires guessing the eventual decision of the Youth Court. It is clearly not appropriate to place the role of predicting the Court's final disposition of the youth in question upon the juvenile officer. This provision has been declared unrealistic by local probation officials and by colleagues across the state.²

The ABA standards also require a significant amount of written documentation when a decision is made to detain a youth. While this concept is not incorrect, problems do result in daily use. For example, in every situation in which release of an arrested youth is not mandatory, the local probation officer is required to investigate and

determine if the juvenile qualifies for an available alternative in the community. If the youth fails to qualify, the officer must explicitly state in writing the reasons for rejecting each of these alternatives. Based on a previous inconsistent pattern of record keeping by the Missoula County juvenile staff for cases involving detention, it is highly unlikely that such a policy would be followed.

Due to the highly restrictive nature of the criteria and its probable acceptance by local officials, criteria developed by the NAC would be the most appropriate for use in Missoula County. NAC criteria is understandable and can be readily applied by local officials. In addition, this criteria does not require local juvenile officers to second guess questions of final disposition or require a large amount of written documentation. While NAC criteria are acceptable in their present form, suggestions to improve the criteria to meet specific Missoula County needs are offered below.

Improvement Of The Recommended NAC Criteria

Several changes in the NAC criteria would allow Missoula County officials to adjust certain provisions to accommodate local conditions and circumstances. NAC criteria currently state that juveniles subject to the jurisdiction of the family court should not be detained in a secure facility unless they are fugitives from another jurisdiction. To accommodate local officials this category would be enlarged

to also allow the detention of aftercare youths and juveniles who have escaped or are missing from an in-state institution, e.g. Pine Hills or Mountain View Schools. This modification will allow local probation officials to address effectively two difficult issues in juvenile detention. Under existing state law, youths who are discharged from state institutions are placed in the aftercare program under the supervision of a state appointed counselor. This recommended change would provide flexibility to local officials by allowing aftercare youths to be detained until their appointed counselors arrived and a final decision was made. In similar fashion, the temporary detention of any youth who has escaped or is missing from a state institution would allow time for the responsible institution to make proper arrangements for the youth.

A second recommended change involves a clarification of the type of serious property or violent crimes that require detention. Existing NAC criteria state that juveniles charged with a serious property crime or a crime of violence other than first or second degree murder, which, if committed by an adult would be a felony, should be incarcerated in a secure detention facility. However, NAC criteria do not specifically define which serious property or violent crimes require detention. A second proposed change would provide Missoula County probation officials with the list of ten specific serious property or violent crimes defined by the Montana State Jail Standards as offenses warranting the

secure detention of juveniles. This "checklist" of offenses could then be readily applied to detention decisions.

SUMMARY

Efforts to decrease the number of juveniles in detention in Missoula County must focus on defining the types of youths who should be detained. The application of the recommended criteria to all potential detention cases in the county would achieve this objective by allowing local probation officials to define objectively which juveniles require secure care. In addition, the consistent policy that will result due to the utilization of criteria, will allow accurate projections of the juvenile detention population in the county. These projections then will permit local policy makers to plan accurately for an alternative secure facility for the purpose of juvenile detention. Population projections for an alternative facility in Missoula County is the focus of the next chapter of this paper.

FOOTNOTES

- ¹ This information was gathered in a series of interviews with the Missoula County juvenile probation staff between August and December, 1983.
- ² Information secured in an interview with staff members of the State of Montana Juvenile Justice Bureau, Helena, MT in October, 1983.

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CHAPTER THREE

ESTIMATING THE FUTURE JUVENILE DETENTION POPULATION OF MISSOULA COUNTY

INTRODUCTION

The problem of juvenile detention in Missoula County requires a comprehensive and well-organized planning process. A successful planning process must define and generate public awareness of the problem of juvenile detention, gather statistics that provide information on the number of juveniles being detained, assess feasible alternatives, and establish a strategy for implementing a new program. One of the most important aspects of this planning process is the collection and analysis of data concerning juveniles who are arrested and placed in secure detention. In order to justify the anticipated building, remodeling, or operating cost of any future juvenile detention facility, the number of juveniles who will require secure detention in the future must be determined.

A METHOD FOR ESTIMATING THE FUTURE JUVENILE DETENTION POPULATION OF MISSOULA COUNTY

The decision to place a juvenile in secure detention in Missoula County has not always been determined by objective and specific criteria. As mentioned in Chapter Two, the use

of criteria for determining whether a juvenile should be placed in detention was only implemented by the county in April, 1983. Prior to this date the county had no formal set of criteria or consistent policy to determine if a juvenile should be detained. This lack of consistent policy makes planning for a future facility difficult.

When a juvenile is placed in the Missoula County Jail information which indicates the specific offense for which the youth was incarcerated is recorded in the youth's file by local probation officials. This information is in turn sent to a state data base system known as the State of Montana Juvenile Probation Information System (JPIS). The Juvenile Justice Bureau of the State of Montana compiles these individual detention cases on a monthly and yearly basis for each county and judicial district in the state. Such JPIS compilations, known as case history reports, provide the following information: 1) the type of offense which led to detention; 2) the legal history of the youth, i.e., the number and type of past offenses committed by the youth; and 3) the legal status of the youth, i.e., the number of previous adjudications of delinquency or probation.

In order to achieve an estimate of the number of juvenile detention beds to plan for in the future, the recommended NAC criteria were applied to the case history reports of detained youths in Missoula County in 1982 and 1983. This application required three major steps. First, the

recommended National Advisory Committee (NAC) criteria were retrospectively applied to the case history reports of January 1, 1982, to March 31, 1983. This provided the number of youths that would have been detained during this time, had the recommended criteria been applied.

Second, the number of juveniles detained as a result of the application of the Missoula County Juvenile Detention Criteria by the county juvenile probation staff between April 1 and December 31, 1983, was documented. In addition, the recommended NAC criteria were applied retrospectively to detention cases between April 1 and December 31. The two separate figures were averaged to achieve a single estimate of the number of cases to plan for in the future.

Third, the actual number of detention cases in Missoula County from January 1, 1982, to December 31, 1983, and the number of cases that would have occurred under the use of recommended criteria during this same time period were injected into a formula developed by the Community Research Forum of the University of Illinois, Urbana. This formula is designed to estimate the number of beds necessary for the purpose of secure detention in any given county or jurisdiction. The result of this formula was adjusted to accommodate local policies requiring the physical separation of different types of juvenile offenders, possible use of a future facility by other counties in the Fourth Judicial District, and future increases in the juvenile population of Missoula County.

APPLYING THE RECOMMENDED NAC
CRITERIA TO MISSOULA COUNTY DETENTION CASES

The recommended NAC criteria, listed in Appendix A, were applied retrospectively to the JPIS case history of juveniles detained in Missoula County Jail between January 1, 1982, and March 31, 1983, on the following basis: 1) if a youth from another state, judicial district, or county committed any offense in Missoula County, detention was considered to have been appropriate and in accordance with the recommended criteria; 2) if a youth had committed or was charged with first or second degree murder, detention was considered to have been appropriate; and 3) if a youth's individual case history report indicated that he or she had committed a property or violent offense other than first or second degree murder, certain conditions had to be present for detention to have been considered appropriate. First, the committed offense had to be one of the ten offenses specifically listed in the recommended criteria as requiring detention.¹ Second, the youth had to have a previous record or legal history that indicated he or she had committed two or more such offenses in the past, or have been on conditioned release in connection with a previous delinquency proceeding.² If these conditions were met, detention was considered to have been an appropriate decision.

It should be noted that the application of the recommended NAC criteria to JPIS case history reports has several limitations.³ NAC criteria allow the detention of juveniles

if they request protection from dangerous circumstances in writing. However, JPIS reports do not provide information that indicates if a written request for protection was made. NAC criteria also state that a juvenile may be detained due to the commission of a serious property or violent crime coupled with a demonstrable record of willful failure to appear at family court proceedings, or due to a recent record of violent conduct resulting in physical injury to others (Community Research Forum, 1980:34). Case history reports provided by JPIS data are not detailed enough to identify a juvenile's previous record of willful failures to appear at court proceedings or to determine if a juvenile has had a demonstrable recent record of violent conduct resulting in physical injury to others. Finally, NAC criteria allow detention only when there is no less restrictive alternative available that will reduce the risk of flight or of serious harm to property or the juvenile. JPIS case history reports provide no information concerning the availability of alternative placements or the potential threat to property or self. The following section of this chapter provides an estimate of the number of juvenile detention cases Missoula County should plan for in the future.³

RESULTS OF CRITERIA APPLICATION JANUARY 1, 1982 TO MARCH 31, 1983

There were 306 detention cases reported in Missoula County from January 1, 1982, to March 31, 1983.⁴ Sixty-seven of these cases represented runaway juveniles who

committed an offense in Missoula County, but were residents of another state or judicial district in Montana. Eighty-nine cases represented youths placed in Missoula County Jail under the authority of another county within the Fourth Judicial District (this category represents youths who reside in a neighboring county and commit an offense in Missoula County for which they are detained), or were after-care youths placed in jail under the authority of the State Department of Institutions.⁵ The recommended NAC criteria permit the incarceration of juveniles who are runaways or fugitives from another state, judicial district, or county, and youths who are under the supervision of the state after-care program. Therefore, the 156 detention cases representing out-of-state or district youths, aftercare youths, and youths placed in Missoula County Jail under the authority of another county in the Fourth Judicial District were considered to be appropriate detention decisions.

Following the exclusion of out-of-state, district, or county youths, and youths placed in Missoula County Jail under the authority of the state aftercare program, 150 local detention cases remained. Of the 150 local cases, sixty-two were determined to be appropriate detention decisions based on the retrospective application of the recommended criteria; i.e., sixty-two cases of juvenile detention in 1982 met one or more of the guidelines allowing for juvenile detention stated in the NAC criteria. An appropriate detention decision was one in which a youth committed an

offense that was specified in the NAC criteria, coupled with a previous case history of two or more offenses.

Sixty-six local cases were considered to be inappropriate detention decisions based on the retrospective application of the recommended criteria; i.e., sixty-six cases of juvenile detention in 1982 failed to meet any of the guidelines allowing for juvenile detention stated in the NAC criteria. An inappropriate detention decision was one in which a youth committed an offense that was not specified by the NAC criteria as an offense requiring detention.⁶ The most common offenses for which local juveniles were inappropriately detained in 1982 were: 1) runaway (twenty-one occurrences); 2) disorderly conduct (ten occurrences); and 3) theft under \$150 (nine occurrences). Offenses which occurred five times or less but were also considered to be inappropriate reasons for detention included charges of ungovernable, liquor violations, shoplifting, privacy in communications, obstructing an officer or public servant, unauthorized use of a motor vehicle, and criminal mischief under \$150.⁷

The lack of adequate data provided by JPIS case history reports prohibited twenty-two local cases of juvenile detention from being classified as either appropriate or inappropriate. In every case this inability to reach a decision in regards to whether or not detention was appropriate was due to a specific offense listed in the case history reports as a "violation of probation". It was not

possible to interpret from JPIS case history reports what specific offense constituted a violation of probation. Therefore, criteria were not applied to these twenty-two cases.

A summary of the results of the retrospective application of the recommended NAC criteria to juvenile detention cases from January 1, 1982, to March 31, 1983, follows:

- 1) 218 detention cases met one or more of the guidelines allowing juvenile detention as stated in the NAC criteria and were considered to be appropriate detention decisions;
- 2) sixty-six detention cases failed to meet any of the guidelines allowing juvenile detention as stated in the NAC criteria and were considered to be inappropriate detention decisions; and 3) twenty-two cases were considered to be neither appropriate or inappropriate due to the lack of information present in the JPIS case history reports necessary to make a valid decision.

RESULTS OF CRITERIA APPLICATION:
APRIL 1, 1983, TO DECEMBER 31, 1983

On April 1, 1983, Missoula County implemented a policy that requires local officials to use criteria when deciding whether or not to detain a juvenile. In this section of the analysis, the number of juveniles detained as a result of the use of the Missoula County criteria between April and December, 1983, was compared to the retrospective application of the recommended NAC criteria to juvenile detention cases during this same time period. The purpose of this

retrospective application was to measure the effectiveness of the newly-implemented Missoula County criteria against the nationally recognized NAC criteria; i.e., were the number of detention cases permitted under Missoula County criteria comparable to the number of cases that would have been permitted if the recommended NAC criteria had been applied?

Under the guidelines of the Missoula County Juvenile Detention Criteria eighty-six juveniles were detained in the local jail between April 1 and December 31, 1983.⁸ Twenty-two of these cases represented runaway youths who committed an offense in Missoula County, but were residents of another state or judicial district in Montana. Thirty-five cases represented youths placed in Missoula County Jail under the authority of another county within the Fourth Judicial District or were aftercare youths placed in jail under the authority of the State Department of Institutions. As stated in the 1982 data analysis, the recommended NAC criteria permit the incarceration of juveniles who are runaways from another state, judicial district, or county, and youths who are under the supervision of the state aftercare program. Therefore, the fifty-seven cases representing out-of-state, district, or county youths and aftercare youths placed in Missoula County under the authority of the State of Montana were considered to be appropriate detention decisions.

Following this exclusion of out-of-state, district, or county youths and youths placed in jail under the authority of the state aftercare program, twenty-nine local cases remained to be considered. Of these twenty-nine cases, nineteen were determined to be appropriate detention decisions based on the retrospective application of the recommended criteria. An appropriate detention decision was one in which a youth committed an offense that was specified by the NAC criteria, coupled with a previous case history of two or more offenses.

Four cases were considered to be inappropriate detention decisions based on the retrospective application of the recommended criteria because they failed to meet any of the guidelines allowing for juvenile detention stated in the NAC criteria. As in the 1982 data analysis, an inappropriate detention decision was one in which a youth committed an offense that was not specified by the NAC criteria as an offense requiring detention. Offenses for which juveniles were inappropriately detained between April and December, 1983, included two charges of criminal mischief under \$150 and two charges of obstructing a police officer or public servant.

The lack of adequate data provided by JPIS case history reports prohibited six local cases of juvenile detention from being classified as either appropriate or inappropriate. As in the 1982 data analysis, this was due to the inability to identify the exact offense for which the

youth was being detained. Therefore, criteria were not applied to these six cases.

A summary of the results of the retrospective application of the recommended NAC criteria to juvenile detention cases from April 1 to December 31, 1983, follows: 1) seventy-six detention cases met one or more of the guidelines allowing juvenile detention as stated in the NAC criteria and were considered to be appropriate detention decisions; 2) four detention cases failed to meet any of the guidelines allowing juvenile detention as stated in the NAC criteria and were considered to be inappropriate; and 3) six detention cases were considered to be neither appropriate or inappropriate decisions due to the lack of information provided by the JPIS case history reports. The number of detention cases that were actually documented by the Missoula County Juvenile Probation Office between April 1 and December 31, 1983, and the number of cases during this same time period that were considered to be appropriate as a result of the retrospective application of the recommended criteria were averaged to achieve a single estimate of the number of cases to plan for in the future. This figure was determined to be eighty-one cases.

Effectiveness Of The Missoula County Criteria

Since the implementation of criteria in April, 1983, the Missoula County juvenile detention population has steadily declined. In the first three months of 1983 sixty-seven

juveniles were detained in the local jail. In comparison, only eighty-six juveniles were detained in jail between April 1 and December 31 following the implementation of criteria.

The number of juvenile detentions documented by the county between April and December, 1983, was only four greater than the number of cases considered to be appropriate during this same time period as a result of the retrospective application of the recommended NAC criteria. This indicates that the Missoula County Juvenile Detention Criteria has been effective in eliminating the inappropriate placement of juveniles in the local jail. Criteria alone are not responsible for the decrease in the juvenile detention population in Missoula County. Recent litigation in the United States directed against local probation officials for commingling adult and juvenile offenders has caused an increased awareness among local probation personnel in Missoula County. This increased awareness has appeared to help ensure a lower rate of detention for juveniles in the county.⁹

THE NUMBER OF JUVENILE DETENTION BEDS NEEDED IN MISSOULA COUNTY

The actual number of detention cases in Missoula County in 1982 and 1983 and the number of cases that would have occurred had the recommended criteria been applied during this same time period were injected into a formula developed by the Community Research Forum of the University of

Illinois at Champaign-Urbana. This formula is designed to estimate the number of beds necessary for the purpose of secure detention in any given county or jurisdiction. The following information was necessary to utilize this formula: 1) the total number of youths detained in a given time period; 2) the total number of youths that would have been detained in the same given time period had detention criteria been originally utilized; 3) the specific time period chosen for the study; and 4) the average length of time that all juveniles incarcerated during this time period spent in jail (Community Research Forum, 1980:14).

The application of this formula requires two steps. First, the number of youths that would have been detained had criteria been originally applied is divided by the total number of youths detained during the selected time period of 1982 and 1983. This calculation is expressed as the detention rate. Second, the total number of youths detained during 1982 and 1983 is multiplied by the detention rate. This figure is in turn multiplied by the average length of time (expressed in hours) that all detained juveniles spent in Missoula County Jail during 1982 and 1983. Finally, this figure is divided by the number of hours in the specific time period, i.e., 1982 and 1983.

As a result of this research and additional information supplied by the Missoula County juvenile probation staff, the following statistics were used in this formula. 1) The total number of youths detained in 1982 and 1983 was 364.

This figure includes the elimination of cases in which a lack of information provided by JPIS case history reports prevented the retrospective application of criteria. 2) The total number of youths considered to be appropriately detained as a result of the retrospective application of criteria to 1982 and 1983 detention cases was 299. This includes the figure represented by the averaging of the number of youths detained under Missoula County detention criteria and the retrospective application of the recommended criteria to cases between April and December, 1983. 3) The time period under study has been 1982 and 1983, expressed as 17,520 hours. 4) The average length of time that juveniles incarcerated during this period spent in detention was 89.65 hours.¹⁰

These statistics can be expressed in the formula developed by the Community Research Forum in the following steps:

STEP ONE: Computing the detention rate

Number of youths detained according to criteria in 1982 and 1983	-	Total number of youths detained in 1982 and 1983	=	Detention rate
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299 - 364 = .821 detention rate

STEP TWO: Estimating the number of detention beds

Total number of youths detained in 1982 and 1983	X	Detention rate	X	Average length of incarceration	-
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Specific time period of 1982 and 1983	=	The number of detention beds
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(364 X .805 X 89.65) - 17,520 = 1.5 detention beds

This analysis has determined that approximately one and one-half beds would have been needed for the purpose of secure juvenile detention in Missoula County. This figure in turn serves as an estimate of the number of detention beds to plan for in the construction of any future facility. As one and one-half detention beds is an impossibility, this figure will be rounded to an even two beds. This estimate does not take into consideration the juvenile detention population of the remaining counties in the Fourth Judicial District, local policies requiring the physical separation of different types of juvenile offenders, or future increases in the general population of Missoula County.

ADJUSTING THE ESTIMATED JUVENILE DETENTION POPULATION

Corrections planners and governmental authorities in the United States have often been frustrated with inconsistent inmate population projections. Substantial capital and building decisions based on projections that later proved incorrect are a common occurrence in the planning of correctional facilities, e.g., consider the current overcrowding problem at the Montana State Prison. This problem is primarily due to the fact that population forecasting methods operate on the assumption that the criminal justice system will continue to operate in the future in essentially the same way it has in the past (Worring, 1983:1). For example, recent court cases involving policies of juvenile detention, such as the Tewksbury decision considered in Chapter One,

demonstrate that the juvenile justice system is open to continual change and innovation.

Jails for juveniles or adults do not establish their own population levels. They are dependent upon the policies and actions of local law enforcement agencies, courts, public opinion, and legislative decisions. Any changes in these policies or actions can invalidate the most accurate inmate population projections. It is understandable that government officials and administrators want to know exactly how many beds are needed for the purpose of juvenile detention in Missoula County. However, given the unpredictable variables involved, only a reasonable estimate can be offered.

Juvenile Detention Population Of The Remaining Counties In The Fourth Judicial District

An important variable to consider in the planning process for a new juvenile detention facility in Missoula County is the number of juveniles presently being detained in the remaining four counties of the Fourth Judicial District.¹¹ It is likely that any facility designed and built for the secure detention of juveniles in Missoula would also be used by the four other counties in the Fourth Judicial District. To estimate the number of detention beds necessary for the secure care of juveniles from Ravalli, Lake, Mineral, and Sanders counties, the recommended NAC criteria were applied retrospectively to the JPIS case history reports of detained youths in these counties in 1982 and

1983. The results of this application were injected into the formula developed by the Community Research Forum for the purpose of estimating the number of detention beds in any given jurisdiction.

Ninety-eight detention cases were reported in Ravalli, Lake, Mineral, and Sanders counties in 1982 and 1983.¹² Eleven of these cases represented runaway juveniles who committed an offense in one of the four counties, but were residents of another state or judicial district in Montana. Twelve cases represented youths placed in one of the four county jails under the authority of another county in the Fourth Judicial District, or were aftercare youths placed in jail under the authority of the State Department of Institutions. These twenty-three cases were considered to be appropriate detention decisions.

Following the exclusion of out-of-state or district youths, and youths placed in one of the four county jails under the authority of the state aftercare program, sixty-eight local detention cases remained. Of these sixty-eight cases, thirty-seven were considered to be appropriate detention decisions based on the retrospective application of the recommended criteria. Thirty-one cases failed to meet any of the guidelines allowing for juvenile detention stated in the recommended criteria and were considered to be inappropriate decisions. The lack of adequate data provided by JPIS case history reports prohibited seven local cases from being classified as either appropriate or

inappropriate. As in the previous Missoula County analysis, this was due to the inability to identify the specific offense that led to detention.

The actual number of detention cases in Ravalli, Lake, Mineral, and Sanders counties in 1982 and 1983 and the number of cases that would have occurred had the recommended criteria been applied during this same time period were injected into the previously-described formula designed to estimate the number of beds necessary for secure detention. The results of this formula are described below.¹³

STEP ONE: Computing the detention rate

Number of youths detained according to criteria	-	Total number of youths detained in 1982 and 1983	=	Detention rate
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$$60 - 91 = .660 \text{ detention rate}$$

STEP TWO: Estimating the number of detention beds

Total number of youths detained in 1982 and 1983	X	Detention rate	X	Average length of incarceration	-
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Specific time period of	=	The number of detention beds
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$$(91 \times .660 \times 62.54) - 17,520 = .214 \text{ detention beds}$$

This analysis has determined that less than one bed would have been needed for the purpose of secure juvenile detention in Ravalli, Lake, Mineral, and Sanders counties. One extra bed should provide sufficient space for the participation of these counties in a future detention facility located in Missoula.

It should be noted that Sanders and Lake counties will

no longer be included in the Fourth Judicial District after 1984. Their exclusion from the Fourth Judicial District may influence their future decisions to detain youths in Missoula County. However, an assumption is made in this research that Sanders and Lake counties would continue a policy of detaining juveniles in Missoula, regardless of their exclusion from the Fourth Judicial District. The lack of alternatives for juvenile detention will likely lead to a dependence on a facility located in Missoula.

Local Policies Affecting The Juvenile Detention Population Estimate

The Missoula County Juvenile Probation Office presently maintains a policy which requires different types of juveniles to be physically separated from each other while placed in secure detention. Separation in this context refers to complete physical sight and sound separation. This policy is designed to protect less dangerous offenders from the influences and potential threats of juveniles incarcerated due to the commission of serious or violent crimes.¹⁴

Policies of separating different types of juveniles are not mandated by national legislation. While many states do have legislation that applies to the problem of separating different types of juvenile offenders, the Montana legislature has failed to address this issue. However, nationally-developed standards for the administration of juvenile justice by groups such as the National Advisory Committee for Juvenile Justice and Delinquency Prevention

recommend the separation of violent and non-violent offenders, serious and non-serious offenders, and separation by sex and age if at all possible (National Advisory Committee, 1980:453). Missoula County has followed these recommendations and presently attempts to separate incarcerated juveniles by the guidelines listed above.

Separating different types of juveniles requires a facility which allows for the frequent movement of offenders from one secure cell or room to another in order to avoid the interaction between different types of youths. In times of near capacity population the task of separating offenders becomes difficult or impossible due to space limitations. This difficulty can be illustrated by briefly examining the problem of separating male and female offenders in the existing county jail during periods of peak population.

A total of 120 males and thirty-two females were incarcerated in Missoula County Jail in 1983.¹⁵ An analysis of county juvenile detention population statistics revealed that a maximum of four juvenile males and two juvenile females were held in detention together during any one time period in 1983.¹⁶ Although the occurrence of six juveniles in detention at any one time is unusual, this peak in population does occur and creates difficulty in separating male and female offenders. When consideration is also given to the separation of violent and non-violent and serious and non-serious offenders, it becomes clear that more than three beds are needed to accommodate policies of separation.

Three extra beds are recommended to provide local officials with operational flexibility during periods of peak population. This brings the total number of detention beds to six.

Population Trends in Missoula County 1980-2000

An additional variable to consider in the planning process for a new juvenile detention facility is that of future population trends of the general public in Missoula County. Recent studies conducted by the Bureau of Business and Economic Research at the University of Montana indicate that the general population of Missoula County will increase by 23.7 percent between 1980 and 1990 (Polzin, 1982:21). Specifically, Missoula County is projected to have about 94,000 residents in 1990, up from 76,000 in 1980 (Polzin, 1982:21).

Population counts and projections conducted by the United States Bureau of the Census and the University of Montana Bureau of Business and Economic Research are broken down into categories of ten year intervals. Of most importance to this study of juvenile detention is the group of individuals between ten and nineteen years of age.¹⁷ Despite the projected increase in the general population of Missoula county between 1980 and 1990, a decrease of 2.2 percent is anticipated in the population of youths between the ages of ten and nineteen during this same time period (Polzin, 1982:21). According to the United States Bureau

of the Census and the Bureau of Business and Economic Research, Missoula County had a population of approximately 13,000 individuals between the ages of ten and nineteen in 1980 (United States Bureau of the Census, 1980:151 and Polzin, 1982:21). Population projections conducted by the University of Montana Bureau of Business and Economic Research estimate that by 1990 this figure will decrease to 12,700 (Polzin, 1982:22). This slight reduction should not alter the estimate of six detention beds considered to be necessary by this research.

The focus of this study is on the immediate juvenile detention problems and needs of Missoula County. However, a consideration of population trends for young people between the ages of ten and nineteen between 1990 and 2000 in the county cannot be totally dismissed. Population projections conducted by the Bureau of Business and Economic Research for Missoula County extend only to the year 1990. However, these population projections do show an increase of 45.3 percent for the age group zero to nine years between 1980 and 1990 (Polzin, 1982:22). Assuming this projected figure is accurate, a significant increase in the number of youths between the ages of ten and nineteen will occur in Missoula County between 1990 and 2000 as this younger group grows older. To accommodate this projected increase, any proposed facility for juvenile detention must be designed with sufficient architectural flexibility to allow for the expansion of the number of detention beds.

SUMMARY

This research has concluded that a facility of six beds would be adequate for the purpose of secure juvenile detention in Missoula County. A six bed facility would accommodate youths requiring detention from neighboring counties, local policies requiring the separation of different types of juvenile offenders, and projected population estimates of juveniles between the ages of ten and nineteen in Missoula County until the year 1990. While six beds is adequate until 1990, additional beds may be required by the mid-1990's due to an anticipated increase in the juvenile population between 1990 and 2000.

FOOTNOTES

- 1 The ten offenses which warrant secure detention in the recommended criteria are: 1) criminal homicide; 2) aggravated assault; 3) arson; 4) robbery; 5) burglary or aggravated burglary; 6) sexual intercourse without consent; 7) aggravated kidnapping; 8) possession of explosives; 9) sale of dangerous drugs; and 10) felony theft.
- 2 A previous record or legal history of two or more offenses has been recognized by national groups such as the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Community Research Forum as a legitimate prerequisite for the requirement of secure detention.
- 3 The limitations of accurate data are a well-established fact in the field of juvenile justice. The availability of data which indicted the offense committed by the detained youth and the legal history and status of the youth at the time of detention is considered by national organizations such as the Children's Defense Fund or Community Research Forum to be the most accurate data available to project juvenile detention populations. (See Sarri, 1974; Children's Defense Fund, 1976; and Community Research Forum, 1980.)
- 4 Missoula County Juvenile Probation Office statistics and State of Montana JPIS case history reports
- 5 Missoula County Juvenile Probation Office statistics
- 6 The ten offenses which warrant secure detention in the recommended criteria are: 1) criminal homicide; 2) aggravated assault; 3) arson; 4) robbery; 5) burglary and aggravated burglary; 6) sexual intercourse without consent; 7) aggravated kidnapping; 8) possession of explosives; 9) sale of dangerous drugs; and 10) felony theft.
- 7 Missoula County Juvenile Probation Office statistics
- 8 Missoula County Juvenile Probation Office statistics and State of Montana JPIS case history reports
- 9 The Missoula County juvenile probation staff has been alerted and warned about the practices of placing inappropriate juveniles in jail by the Office of Juvenile Justice and Delinquency prevention in Washington, D.C. and by the Juvenile Justice Bureau of the State of Montana. In addition, the chief probation officer of Missoula

County has taken an active role in preventing the placement of inappropriate youths in jail. These factors have contributed significantly to the lower number of juveniles being placed in the Missoula County Jail.

- 10 Missoula County Juvenile Probation Office statistics
- 11 Included in the Fourth Judicial District are Sanders, Mineral, Lake, Ravalli, (and Missoula) counties.
- 12 State of Montana JPIS case history reports
- 13 The figure for the average length of incarceration was supplied by Jeremiah Johnson, Chief Probation Officer for the Fourth Judicial District.
- 14 Youths incarcerated for simple misdemeanors have often been victimized in jail by more serious juvenile offenders. The best-known case of this occurred in Boise, Idaho in 1982 when a youngster named C. Peterman, incarcerated for the commission of minor traffic violations, was brutally beaten and killed by a group of violent juveniles in the county jail.
- 15 Missoula County Juvenile Probation Office statistics
- 16 To determine periods of peak capacity daily Missoula County jail rosters were examined and charted for each day and month of 1982.
- 17 The jurisdiction of the juvenile court extends only to a youth's eighteenth birthday. However, the age group of ten to nineteen years is the closest representation of individuals who are placed in secure detention in Missoula County Jail.

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CHAPTER FOUR

RECOMMENDATIONS FOR A JUVENILE DETENTION FACILITY IN MISSOULA COUNTY

INTRODUCTION

The guidelines of the 1980 Amendments to the Juvenile Justice and Delinquency Prevention Act require the removal of juveniles from adult jails and lockups by December 8, 1985. In order to meet these guidelines and avoid the possibility of facing future legal action for commingling juveniles and adults in the same facility, Missoula County must plan, develop, and operationalize a facility for juvenile detention by this date. The development of such a facility will require extensive cooperation and interaction between county commissioners, juvenile probation officials, private youth service agencies, and the general public.

In the past decade a variety of alternatives to the use of local adult jails for juvenile detention have been attempted in the United States (see Pappenfort and Young, 1980). Alternatives range from simply increasing the number of youths released to their parents after arrest to building totally separate facilities for juveniles who require secure care. In several western states in which the population of juveniles requiring secure care is comparable to Montana, secure detention services have often been combined with

other types of youth programs. For example, the State of Utah has adopted a concept of state managed regional detention centers that combine the services of nonsecure shelter care and secure care for serious juvenile offenders. The development of an alternative juvenile detention facility in most jurisdictions is generally the result of the availability of existing youth service resources, such as group homes or state institutions, and the economic status of the particular jurisdiction at the time development is considered.

The planning process for a new juvenile detention facility in Missoula County began in October, 1983. Despite six months of study, no single solution to the problem of where to detain juveniles has been agreed to. An examination of the alternatives studied by the Missoula County Jail Study Policy Advisory Committee follows.

ALTERNATIVES FOR JUVENILE DETENTION IN MISSOULA COUNTY

The analysis conducted in Chapter Three determined that a six bed facility is necessary for the secure detention of juveniles in Missoula County and the Fourth Judicial District. Despite the increased diversion of troubled youths to nonsecure alternatives such as shelter care homes, group homes, or community work release programs in the Missoula area, it is likely that a small population of serious offenders will always require secure care in the Missoula County area. While nonsecure alternatives should

be used for juvenile offenders whenever possible, secure beds are needed by the county to protect the community from juveniles who have committed serious crimes such as murder or rape.

The existing arrangement of detaining juveniles in the Missoula County Jail is no longer an alternative for the secure care of troubled youths. While the county jail meets minimum requirements of sight and sound separation, it would be architecturally impossible to alter the jail to satisfy the 1980 Jail Removal Amendments of the Juvenile Justice Delinquency and Prevention Act. Local officials would be guilty of violating federal legislation and possibly become the object of a legal suit in a relatively short period of time if the practice of detaining youths in the county jail continues. Such a suit would focus on the county's inability to satisfy the jail removal requirements of the 1980 Amendments. It is imperative that secure beds for juvenile detention are developed by the county as soon as possible.

The Missoula County Jail Study Policy Advisory Committee, under the direction of County Commissioner Barbara Evans, has identified five policy alternatives to the present use of the county jail for the secure detention of juveniles. These are: 1) a contract with Missoula Youth Homes to provide detention services to the county in one of its existing shelter care homes; 2) a state financed and operated regional detention facility; 3) a juvenile services center in Missoula that would combine existing county youth

services with detention in a single facility; 4) a new county public safety building which would include juvenile and adult detention in the same complex; and 5) a separate juvenile facility placed in an undetermined location in the county. Upon closer examination and analysis, four of these alternatives can be eliminated from consideration as a future policy or facility for juvenile detention.

**Alternative One: Contracting Detention Services with
Missoula Youth Homes**

In this alternative, detention services would be provided by Missoula Youth Homes in its existing Attention Home, a shelter care facility presently designed to serve only status and other less serious offenders. As this alternative requires no initial construction costs, it is economically attractive to the county. However, on March 6, 1984, the Board of Directors of Missoula Youth Homes informed county officials that they were not interested in placing detention services in the existing Attention Home. This decision was based on the extensive remodeling that would be necessary in the Attention Home to accommodate juveniles requiring secure care. In addition, the staff of Missoula Youth Homes stated that the philosophical approach that would be necessary to work effectively with serious juvenile offenders differs too appreciably from the current philosophy of care and treatment offered at the Attention Home.

However, despite this initial rejection to provide secure care, the county is in a position to continue negotiating with Missoula Youth Homes regarding the issue of providing detention services. At the present time, the Missoula County Juvenile Probation Office refers approximately 40 percent of all status offenders and other youths guilty of less serious crimes placed at the Attention Home.¹ Due to its dependence on county referrals, Missoula Youth Homes could conceivably be persuaded to provide detention services at some point in the future. However, the combination of detention and shelter care services in the existing Attention Home does not seem likely in the immediate future.

Alternative Two: A State Managed Regional Detention Facility

The possibility of a state financed and managed detention facility is also unlikely at this time. To date, state agencies likely to be involved in providing juvenile detention services, i.e., Department of Justice, Corrections, or Social and Rehabilitative Services, have made no suggestions or offers to individual counties in the state to assume responsibility for providing detention services to troubled youths. Evidence from interviews conducted with officials of the State Juvenile Justice Bureau indicate that no state plans are being made to assume any local responsibilities of detention.²

There have been attempts by local officials in Missoula and Billings to develop a state detention facility in the existing Mountain View School for girls located in Helena. However, despite an initial receptiveness from William Unger, Director of Mountain View School, little progress has been made. In addition, local Missoula County juvenile judges generally oppose the placement of youths awaiting court appearances in any facility located so far from the court.³

Alternative Three: Juvenile Services Center

A juvenile services center in Missoula would serve as a transitional facility for troubled youths from the point they encounter police to possible court appearance. A proposed juvenile services center for Missoula County would attempt to combine existing youth services, such as private and public counseling and social welfare youth intake offices, with secure detention. If a youth encountered police or was in need of social welfare assistance, the juvenile services center would be the facility to which the youth would be immediately sent. Following an evaluation of the youth's problems by trained staff at the juvenile center the youth would likely be recommended to an appropriate longer-term program or facility in the county or state.

The development of a juvenile services center in any community takes a great deal of cooperation between government agencies, such as probation officials and social

welfare bureaus, and privately managed youth service organizations, such as group care facilities and counseling agencies. There must be incentives for each public or private youth agency to cooperate in sharing the costs and operation of such a facility. At the present date, the incentives or benefits of a juvenile services center to potential participating agencies are not great enough to warrant the high costs involved in the construction of this type of facility. For example, the benefits gained as a result of the county moving its social welfare client intake process into a facility with secure detention are likely to be minimal to the existing operations of the welfare office. Similarly, there would be few advantages to private sector agencies who presently offer counseling to troubled youths in various locations in Missoula to consolidate within one facility. Finally, the presence of physical barriers and strict supervision that accompany the provision of detention services may be perceived as having a negative effect on other types of youths utilizing the services of the facility. While extremely attractive on a theoretical basis, this alternative is more appropriate for larger urban areas where the base of support and resources for the development of such a facility are greater.

Alternative Four: Juvenile Detention In A Proposed Missoula County Public Safety Building

In October, 1983, an architectural plan for a new

Missoula Public Safety Building was submitted to the County Jail Policy Advisory Committee by a private consulting service of Helena. Under the conditions of this plan, the existing county annex building would be remodeled to serve as an adult jail and juvenile detention facility. In addition, a newly constructed building would be attached to the north end of the annex on what is presently the 200 block of West Pine Street. It was proposed that the following county functions or offices be included in the existing annex and the newly constructed building: 1) the adult jail; 2) the juvenile jail; 3) the crime laboratory; 4) the county law enforcement offices; and 5) the Justice of the Peace Courts. This alternative for juvenile detention was immediately viewed as being economically attractive by many members of the Policy Advisory Committee, due to the lower costs associated with combining detention with an existing service in the community. However, despite this receptiveness, there are serious problems or flaws that prevent this alternative from being a successful long-term policy for the detention of juveniles in Missoula County. An examination of three of these problems follows.

Federal guidelines defining separate juvenile detention facilities. The language of the 1980 Jail Removal Amendments of the Juvenile Justice and Delinquency Prevention Act does not clearly address or define what constitutes a separate juvenile detention facility. While the language of

the amendments clearly requires the separation of juvenile and adult offenders in detention facilities, problems in the interpretation of "separateness" arise when juvenile detention facilities are located in the same building or on the same grounds as the local adult jail or lockup. Can juvenile detention facilities be located in separate areas within the same building as an adult jail or lockup? In October, 1983, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in Washington, D.C., issued a policy statement which attempted to answer this question. The OJJDP stated that when a juvenile facility and an adult jail or lockup are in the same building or on the same grounds the following three criteria must be met to ensure the requisite separateness of the two facilities:

- 1) total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult offenders in the respective facilities;
- 2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and
- 3) totally separate juvenile and adult staff, including facility administration, supervisory staff, and direct care personnel in activities such as recreation, education, and counseling (OJJDP, 1983:4).

The first provision of this criteria requires the physical design of any detention facility to ensure that there can be no haphazard or accidental contact between juvenile and adult offenders in their respective facilities. This

provision is considerably stricter than regulations prior to 1980 which demanded only the sight and sound separation of adults and juveniles while placed in their respective cells. The second provision of the criteria requires that all program activities for juvenile and adult offenders, i.e., recreation, education, health care, dining, and general living activities, be totally separated within an adult and juvenile detention building. This provision requires the creation of separate juvenile facility intake, booking and admission processes, and separate programs for all services provided to incarcerated offenders.

The third provision of the criteria requires that there be a separate juvenile and adult staff within the facility. In addition, juvenile staff must be specially trained in the handling of troubled youths and be acquainted with the special problems of juveniles placed in detention, e.g., loneliness, suicide, depression, etc. A separate juvenile staff must also be provided in areas of administration, supervision, and in all recreational, educational, and counseling activities.

The criteria established by the OJJDP to define what constitutes a separate juvenile detention facility are significant to any future plan that seeks to combine juvenile and adult detention in a county public safety building. It appears that at this time a juvenile detention facility could be placed in a proposed county building that contains an adult jail, provided there is total separation of all

juvenile and adult spatial areas, program activities, and personnel. However, legislation pending in Washington, D.C., and a series of recent court cases which address the issue of placing juvenile and adult detention centers in the same facility, recommend that this policy be halted.

Legislation and litigation affecting the public safety building proposal. In late 1983, Senator Arlen Specter, D-Pennsylvania, introduced legislation in the Senate which, if passed, will alter the conditions of "separateness" established in the OJJDP criteria discussed above. Specter's proposed Juvenile Incarceration Act of 1983 calls for a stricter interpretation of what constitutes a separate facility than that offered by the OJJDP. Under provisions of the "Specter Bill," placing a juvenile detention center in the same physical structure as an adult jail would be illegal under any circumstances. Preliminary reports from juvenile justice officials in Montana and the country suggest that this bill, yet to be debated or considered on the floor of the House or Senate, is likely to be eventually passed by both Houses of Congress.⁴

A series of recent court cases in which youths placed in jails intended for adults have successfully sued local juvenile judges, sheriffs, and probation officials is also of great importance when planning or considering the legality of a juvenile detention center located in the same building as an adult jail. In the past two years, the Youth Law

Center of San Francisco has been extremely successful in representing the interests of youths who have suffered negative effects, abuse, or even death as a result of placement in an adult jail or detention facility. In many of these cases settlements in the six figure range have been awarded to youths or to the parents of youths who have suffered from placement in an adult facility. If a youth was to be injured, abused, or otherwise negatively influenced as a result of being placed in an adult jail or in a separate section of an adult facility, the potential costs to local county officials responsible for detention could be extremely high.

The liability problems facing local juvenile justice officials can be clearly illustrated by recent events in the state of Idaho. In 1981, a youngster named Chris Peterman, placed in a juvenile wing of the Ada County Jail in Boise for failing to pay approximately \$70 in traffic fines, was tortured and beaten to death in a cell he shared with serious juvenile offenders. Since the Peterman incident and an eventual successful court case which awarded the mother of the boy a settlement in the six figures, forty-six major lawsuits concerning the placement of juveniles in jails have arisen in Idaho alone.⁵

It is important to note that local officials would still be responsible for any abuse which would occur in a juvenile facility placed in a totally separate location from the adult jail. However, experts generally agree that the chances for

abuse in this type of facility are much lower due to the presence of a qualified juvenile staff and the care and treatment-oriented environment which is likely to be present in the facility (Community Research Forum, 1980:42). When considering what defines a separate juvenile facility, the issue of local liability cannot be emphasized enough.⁶ Upon consideration of legislation pending in the Senate and numerous court cases favoring the rights of youths inappropriately placed in detention centers located in adult facilities, Missoula County officials would be taking a considerable risk if they chose to place a new juvenile facility in the same building as a new adult jail.

Other adverse effects of placing juvenile detention services in an adult facility. In addition to the previously discussed legal issues, a number of other considerations and recent developments in the field of juvenile justice suggest that the inclusion of juvenile detention services in the proposed public safety building would be an inappropriate policy for local officials to pursue. First, the inclusion of secure detention in the same building or grounds as an adult jail is contrary to current and emerging practices in other states which are revising juvenile detention practices. In reaction to current national initiatives favoring separate juvenile facilities, most states are moving toward a policy of building or maintaining separate facilities for the secure care of troubled youths. Should

Missoula County place juvenile detention in the proposed public safety building, it may find itself with a quickly outdated and inappropriate program.

Including secure juvenile detention in the proposed public safety building would also have little effect on removing the current negative stigma attached to juveniles placed in jail. The inclusion of juvenile detention in the adult facility would continue the societal practice of labeling all juvenile offenders as threatening criminals. Regardless of how separate the juvenile services are located within the facility, the public is likely to perceive the facility as "just another jail." The court system and even juveniles themselves would also likely continue to attach negative connotations to such a facility.

Finally, including juvenile detention in the proposed public safety building may result in staff attitudes and an operational philosophy which responds more to the adult offenders confined in the building. While this may not be reflected in formal policies or procedures, experience indicates that in facilities where juvenile and adult justice operations are combined, the dominant operational philosophy tends to overemphasize the custody associated with the adult. The result is that the care and treatment which should be associated with juveniles are often ignored (Community Research Forum, 1980:45). Also, when conditions of overcrowding or crisis occur in the adult section of a combined facility, the juvenile area is likely to be used to

relieve the pressure in the adult jail.

A selected alternative for juvenile detention in Missoula County must meet existing laws and guidelines, be sensitive to pending legislation and recent court decisions, and be designed with the best interests of troubled juveniles in mind. As the above examination illustrates, it is difficult for many alternatives to meet these goals. Recommendations for a future policy and facility for the secure care of juveniles in Missoula County and the Fourth Judicial District follow.

RECOMMENDATIONS FOR JUVENILE DETENTION IN MISSOULA COUNTY

It is the recommendation of this research that local officials take the initiative to develop a separate facility for the purpose of secure juvenile detention in Missoula County. This facility should be located in an area of the city or county that is not associated with the existing county jail. Specific recommendations pertaining to the responsibility, staffing, design, and program elements of the recommended facility are offered below.

Responsibility For Juvenile Detention In Missoula County

Under existing county policy, the Missoula County Sheriff's Department is responsible for the supervision of juveniles placed in detention. Once juveniles are placed in jail the county juvenile probation personnel take no direct responsibility for the daily supervision of their clients.

This practice is common in Montana and in other states where youths are still placed in jails intended to be used only for adults.

There are a number of problems with allowing a local sheriff's department to supervise youths placed in detention. For example, in Missoula County, employees of the Sheriff's Department who supervise youths in detention are not trained to understand the specific emotional or physical problems of juveniles placed in jails. As a result, personnel placed in supervisory positions may be unable to understand why a particular youth is depressed or despondent for long periods of time while in detention. The supervision of detained youths should be the responsibility of experienced individuals trained in areas of child care, psychology, or counseling.

It is recommended that all personnel responsible for the supervision and care of juveniles detained in a separate detention facility in Missoula County be directly accountable to the Youth Court and the Missoula County Juvenile Probation Office. Such personnel should be familiar with the problems commonly faced by juveniles in detention. In addition, initial and periodic training sessions intended to sensitize supervisory staff to the problems of juveniles in detention should be provided by the county juvenile probation office on a regular basis.

The transfer of responsibility for the supervision of juvenile detention from the sheriff's department to the

county juvenile probation staff will require the reorganization and addition of personnel in the existing juvenile probation office. It is recommended that the county create the position of detention supervisor to assume the principal responsibilities of the new juvenile detention program. The detention supervisor would be placed in charge of all administrative and personnel responsibilities associated with the facility. Personnel placed under the detention supervisor should include the following positions: 1) one full-time child care worker; 2) one couple to serve as houseparents in the facility; 3) one individual to work a night shift from midnight to 8:00 A.M.; 4) two or three part-time relief workers; and 5) one part-time secretary. In addition, program personnel would be required to provide specialized services such as education or counseling. It is recommended that the county contract for these special services with existing youth service agencies in the region.

Recommended Staffing Patterns

One full-time child care worker would be responsible for supervisory responsibilities in the juvenile facility between the hours of 8:00 A.M. and 5:00 P.M. each weekday. This individual would be trained and experienced in social work or a closely related field and be familiar with the operations of the juvenile court. The child care worker would also facilitate the necessary appointments and business each detained youth conducted with outside

professionals and court personnel during weekday hours.

The second staffing recommendation suggests the employment of houseparents to work directly with detained youths. Houseparents would reside in an apartment in the facility and be given free room and board as part of their compensation. Houseparents would be responsible for supervision of youths between the hours of 4:00 P.M. and midnight each weekday. The role of the houseparents would be to serve as role models and provide informal counseling to troubled youths placed in detention. The presence of houseparents would provide stability and promote a family environment within the facility. Houseparents would also be available to assist or support staff or youths in times of emergency or crisis.

Three staff positions remain to be considered. First, an individual would be needed to monitor the facility between the hours of midnight and 8:00 A.M. each weekday. Video cameras and alarm systems placed in the facility to monitor the activities of incarcerated youths would allow this individual to perform minor administrative functions during part of this shift. Second, the employment of two or three part-time relief workers would be necessary to supervise detained juveniles during weekend hours. Third, a part-time secretary may be necessary to process information and maintain records of detained juveniles.

It is recommended that all personnel be trained to process juveniles through intake and booking procedures. Such

procedures would take place in the juvenile facility. Meals would be served by on-duty staff and juveniles would dine with the houseparents in a shared day use area whenever possible.

Staffing costs associated with operating a juvenile detention facility will be high in relation to the number of youths served. There are several possible alternatives to defray some of these costs to make the small facility more cost-effective. For example, the position of houseparents and all child care workers employed in the facility could be contracted by the county under an arrangement with a private youth service agency such as Missoula Youth Homes. In times of low population in the detention center these staff positions could assume other capacities within the organization of the contracting youth agency. A second method of cutting personnel costs would be to eliminate the positions of detention supervisor and part-time secretary. It is possible that the responsibilities associated with both of these positions could be assumed by existing personnel in the Missoula County Juvenile Probation Office. Finally, trained volunteers could serve as sources of part-time supervision during weekday and weekend hours. University students or elderly citizens may be considered for these positions.

Personnel And Operational Costs of Detention Services In A Separate Facility

The recommended staffing patterns described above

attempt to eliminate many of the negative aspects of detention presently experienced by juveniles held in Missoula County Jail and to ensure compliance with federal legislation and court decisions. In addition, efforts to curtail costs and still provide quality care to youths are important parts of the staffing design. The following figures provide a breakdown of the costs associated with operating the proposed juvenile detention facility. Two different options for staffing the facility are offered. Staff salaries are consistent with current wages in the fields of juvenile justice and child care. Operational costs are estimates based on figures provided by the Chief Juvenile Probation Officer of the Fourth Judicial District, Jeremiah Johnson.

TABLE ONE

PROJECTED OPERATIONAL COSTS OF JUVENILE DETENTION

A. Personnel - Option 1

<u>Position</u>	<u>Number of Positions</u>	<u>Annual Salary</u>
Detention Supervisor	One, full-time	\$ 23,000.
Child Care Worker	One, full-time	15,000.
Houseparents	One, full-time	20,000.*
Night Supervisor	One, full-time	12,000.
Relief Workers	Three, part-time	18,000.
Secretary	One, part-time	7,000.
Program Personnel	Varies	Varies**
	Subtotal	\$ 95,000.
Fringe Benefits for Administrative Personnel (24%)		7,200.
Fringe Benefits for Child Care Staff (18%)		<u>11,000.</u>
	Total	
	Option 1	\$113,900.

Personnel - Option 2

Position	Number of Positions	Annual Salary
Child Care Worker	One, full-time	\$ 15,000.
Houseparents	One, full-time	20,000.*
Night Supervisor	One, full-time	12,000.
Relief Workers	Three, part-time	18,000.
Program Personnel	Varies	Varies.**
	Subtotal	\$ 65,000.
Fringe Benefits for Administrative Personnel (24%)		00.
Fringe Benefits for Child Care Staff (18%)		11,700.
	Total	
	Option 2	\$ 76,700.

*This figure does not include provisions for free room and board.

**Program personnel would include the contracting of services for counseling and educational needs of residents.

B. Operations

Description	Annual Costs
Miscellaneous Supplies	\$ 200.
Copying	250.
Printing Reproduction	250.
Phone Base - (\$30. per month X two lines)	720.
Phone - Long Distance	2,000.
Books	50.
Transportation	400.
Staff Training	250.
Medical - (Hospital, doctor, and perscriptions)	7,000.
Total Operations	\$ 11,120.

Total Costs - Option 1 = \$ 125,020.

Total Costs - Option 2 = \$ 87,820.

Based on these two options, it is estimated that total personnel and operational costs for the proposed facility will range from approximately \$88,000.00 to \$125,000.00 per year.

The less expensive option requires existing county juvenile probation staff to assume the administrative responsibilities of the proposed facility.

Design And Program Elements Of The Proposed Facility

Constructing a separate facility for juvenile detention may cost the county anywhere from \$200,000.00 to \$300,000.00.⁷ Funding for such a facility would likely occur in the form of a general obligation bond approved by the voters of Missoula County. Due to the high cost of constructing a facility, it is recommended that existing buildings in the community be explored as alternatives. The purchase and remodeling of an existing home or small business in Missoula may be a less expensive alternative.

The design of the proposed facility must provide space for essential program elements such as indoor and outdoor recreation, common day use areas, dining room facilities, and private rooms for counseling and related appointments. Individual rooms and all entrances and exits in the facility must be totally secure. A minimum of six secure rooms should be provided. Staff quarters should be located near the secure rooms and provide a reasonable amount of privacy to personnel.

The following program elements must be provided to juveniles detained in the facility: 1) the opportunity for limited indoor and outdoor recreation each day; 2) the opportunity to see a doctor or qualified medical personnel upon request; and 3) the opportunity to meet with teachers, counselors, and parents on a regular basis. The program of the proposed facility must include proper nutritional meals

and appropriate sanitation procedures and meet minimum requirements for safety codes and related regulations established by the Missoula County Health Department. Some additional recommendations for juvenile detention services in Missoula County and the state of Montana follow.

ADDITIONAL RECOMMENDATIONS FOR JUVENILE DETENTION SERVICES IN MISSOULA COUNTY AND THE STATE OF MONTANA

The Role Of State Government In Detention

The operation of juvenile detention services by individual counties in Montana is expensive. Potential development or construction costs as high as \$300,000.00 and annual personnel and operating costs as high as \$125,000.00 create a significant economic burden for all counties in the process of revising their practices of juvenile detention. This is particularly true in view of the recent economic hardships facing counties in Montana.

The state of Montana has largely ignored the impact that recent federal legislation requiring reform in the adult and juvenile justice systems has had on counties in the state. The state has taken no active role in assisting counties which are planning or building new juvenile or adult detention facilities. It is quite possible that many counties in Montana will be unable to meet the requirements of new federal legislation without future state assistance.

A coalition of sheriffs, probation officials, judges, and county commissioners must be formed to communicate with

state agencies responsible for the administration of adult and juvenile justice policies in the state. This group must generate awareness of the financial problems faced by individual counties attempting to meet the requirements of federally mandated correctional reforms. The financial burden of providing juvenile detention services to a small population of youths in Missoula County is an excellent illustration of this problem.

Public Awareness of Juvenile Justice Issues

Citizens of Missoula County and across the state of Montana are generally uninformed about important issues in the field of juvenile justice. For example, many people in the county and the state are presently not aware of the problems associated with commingling juveniles and adults in jail. It is recommended that a citizens committee be established in the county to generate public awareness and educate the public regarding the negative aspects and dangers of placing juveniles in adult jails. In addition to providing an educational role, this committee would be vital to achieving the required funding necessary to develop a facility for juvenile detention. The development of such a committee would also relieve top local government officials from conducting extensive public relations and educational functions on an individual basis.

SUMMARY OF RECOMMENDATIONS FOR JUVENILE DETENTION
IN MISSOULA COUNTY

It is recommended that the following practices and policies be incorporated in the Missoula County juvenile detention policy:

- 1) Youths entering the juvenile justice system should continue to be diverted to nonsecure alternatives whenever possible. The county must maintain an open dialogue with private detention alternatives such as Missoula Youth Homes in order to improve the care and treatment of all types of troubled youths in the area.
- 2) Juvenile detention should occur in a separate facility and be disassociated from the existing or any future adult jail.
- 3) The responsibility for juvenile detention in the proposed facility should be transferred to the Youth Court and the Missoula County Juvenile Probation Office.
- 4) Personnel in the facility should include one detention supervisor (which may be filled by an existing member of the county juvenile probation staff), one full-time child care worker, houseparents, one night supervisor, two or three part-time relief workers, and an optional part-time secretary.
- 5) Specialized program requirements such as counseling and educational needs should be provided by private agencies and be organized on a contractual basis with the county.
- 6) The proposed juvenile facility should include a minimum of six cells, an office area for intake and booking procedures, a common day use area, a dining room, a private area for counseling or related appointments, a limited indoor and outdoor recreation area, and a three or four room apartment for the employed houseparents.
- 7) A coalition of county officials should be organized to communicate with state agencies regarding the state's role in assisting counties with juvenile and adult detention services.
- 8) A citizens committee should be organized in Missoula County to promote public awareness of juvenile justice issues.

SUMMARY

The recommendations of this research attempt to place the interests of troubled youths in detention above the county's interest in current practices which result in placing juveniles in an adult jail. The proposed facility for juvenile detention would meet federal requirements demanding the separation of juvenile and adult offenders while placed in detention. In addition, the recommended program and staffing patterns in the facility would lessen the possibility of any future legal action against county officials for providing inappropriate conditions for juveniles placed in secure care. A detention environment that removes the negative stigma and effects of placing youths in adult jails is a long overdue reform in the juvenile justice system. In many cases, children have been encouraged to continue a life of crime after being influenced by adult offenders while placed in jails. Other children have suffered long term emotional effects or have taken their lives as a result of being placed in jails.

The jailing of youths under the age of eighteen must be stopped by local government officials responsible for detention policies. In order to create positive change in the juvenile justice system a new attitude regarding detention practices must be instilled in the minds of local government officials and the public. County officials must be convinced that alternatives to placing juveniles in jail can

and must be developed, despite the costs related to taking such actions. Once an attitude of removing juveniles from jails becomes widespread among government officials and the public, alternatives will likely be identified and developed.

In 1983, a youngster from a small town in rural Kentucky named Robbie Horn committed suicide thirty minutes after being placed in a local adult jail. Robbie was guilty of a series of truancy charges and had been in and out of the local jail in the recent weeks before his death. Despondent and humiliated in the eyes of his peers and community, Robbie took his own life one night in jail. The psychological impacts of incarceration on youngsters such as Robbie would be considerably less in a separate facility designed to assist and offer help to troubled juveniles. Local policies of juvenile detention in Missoula County and in all counties of the United States must reflect the fact that juveniles no longer belong in adult jails.

FOOTNOTES

- 1 Missoula County Juvenile Probation Office statistics
- 2 This information was gathered in interviews with state officials in February, 1984.
- 3 The idea of placing a juvenile detention facility in Helena or any distant location from the Youth Court was strongly opposed by Judge Jack Green in a February 6, 1984, meeting of the Jail Study Policy Advisory Committee.
- 4 The likelihood of the Specter Bill passing Congress appears to be quite high according to the State of Montana Juvenile Justice Bureau and preliminary reports from the Office of Juvenile Justice and Delinquency Prevention in Washington, D.C.
- 5 This information was reported in a public address by Mark Soler, Director of the Youth Law Center, during a juvenile justice conference in Butte, MT, on April 12, 1984.
- 6 The importance of protecting local officials from liability charges is aptly illustrated by what has happened to Ada County, ID officials since the Chris Peterman case. Since the Peterman case and similar cases in the past five years, Ada County officials responsible for detention have been unable to obtain insurance to protect themselves from future liability charges.
- 7 This figure was provided by John DeVore, Coordinator of the Missoula County Jail Study Policy Advisory Committee.

REFERENCES

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Office of Juvenile Justice and Delinquency Prevention. 1983. Policy Statement of the JJDP Act, as Amended. Washington, D.C.: Government Printing Office.

Pappenfort, Donnell M. and Young, Thomas M. 1980. Use of Secure Detention and Alternatives to its Use. Washington, D.C.: U.S. Department of Justice.

APPENDIX A

The NAC criteria with recommended changes is listed below. Specifically, the criteria state that juveniles subject to the jurisdiction of the family court should not be detained in a secure facility unless:

- 1) They are fugitives from another jurisdiction, or escapees from a state institution or aftercare placement;
- 2) They request protection in writing in circumstances that present an immediate threat of serious physical injury;
- 3) They are charged with murder in the first or second degree;
- 4) They are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and:*
 - a) they are already detained or on conditioned release in connection with another delinquency proceeding, or
 - b) they have a demonstrable recent record of willful failures to appear at family court proceedings, or
 - c) they have a demonstrable recent record of violent conduct resulting in physical injury to others, or
 - d) they have a demonstrable recent record of adjudications for serious property offenses.
- 5) There is no less restrictive alternative that will reduce the risk of flight, or of serious harm to property or to the physical safety of the juvenile or others (Community Research Forum, 1980:56).

* Serious property crimes or crimes of violence include: 1) criminal homicide; 2) aggravated assault; 3) arson; 4) robbery; 5) burglary or aggravated burglary; 6) sexual intercourse without consent; 7) aggravated kidnapping; 8) possession of explosives; 9) sale of dangerous drugs; and 10) felony theft.